

DIRECT TESTIMONY OF JEREMY NICHOLS

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I. INTRODUCTION

Q. PLEASE STATE YOUR NAME FOR THE RECORD.

A. My name is Jeremy Nichols.

Q. BY WHOM ARE YOU EMPLOYED AND WHAT IS YOUR TITLE?

A. I am employed by WildEarth Guardians, a 501(c)(3) nonprofit environmental advocacy organization, as its Climate and Energy Program Director.

Q. WHAT ARE YOUR RESPONSIBILITIES AS CLIMATE AND ENERGY PROGRAM DIRECTOR WITH WILDEARTH GUARDIANS?

A. Among other things, I lead Guardians' work to restore and protect healthy air throughout the American West. Along with my team, we lend policy and legal expertise to local, state, and federal governments to ensure proper compliance with air quality laws and rules and to improve those laws and rules where they prove insufficient to protect human health and the environment.

Q. PLEASE DESCRIBE YOUR WORK EXPERIENCE IN THE FIELD OF AIR QUALITY AND AIR QUALITY PERMITTING.

A. I have over 15 years of direct, hands-on experience in weighing in on and scrutinizing air quality regulatory actions, including stationary source permitting, SIP revisions, state-only rulemakings, and enforcement. I work closely with and provide consulting support for scientists, attorneys, elected officials, and the general public on air quality and air quality regulatory matters.

Q. HAVE YOU PROVIDED TECHNICAL TESTIMONY ON AIR QUALITY MATTERS BEFORE?

A. I have provided testimony, comments, and information to numerous air quality agencies, boards, and commissions, including the New Mexico Environmental Improvement Board and the

Colorado Air Quality Control Commission. I have developed and submitted comments on numerous permits, both New Source Review and Title V Operating Permits, and state regulatory proposals. I have also provided comments and testimony in response to numerous EPA regulatory actions, including SIP reviews, proposed New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants, regional haze regulations, and nonattainment planning.

Q. HAVE YOU REVIEWED THE PROPOSED AIR QUALITY PERMITS AND ASSOCIATED DOCUMENTS AT ISSUE IN THIS HEARING?

A. Yes, for each proposed permit, I reviewed the proposed permit and associated documents that the Environment Department released for public review.

Q. DID YOU FILE COMMENTS ON BEHALF OF WILDEARTH GUARDIANS ON EACH OF THE 10 PROPOSED PERMITS AT ISSUE IN THIS HEARING?

A. Yes, and I reviewed and authorized Guardians' comments on the subject permit proposals that were filed by my staff person, Matt Nykiel.

Q. WHAT IS GUARDIANS' POSITION ON THE 10 PROPOSED PERMITS AT ISSUE IN THIS HEARING?

A. Guardians opposes the issuance of all 10 proposed permits at issue in this hearing because none of the permit applications nor NMED's proposed permits or associated documentation show the permits comply with the requirements in relevant state and federal statute and regulation.

II. WILDEARTH GUARDIANS' INTEREST IN THE 10 PROPOSED PERMITS

Q. CAN YOU PLEASE EXPLAIN WHY GUARDIANS IS CONCERNED ABOUT

**AND COMMENTED ON THE 10 PROPOSED PERMITS THAT ARE THE
SUBJECT OF THIS HEARING?**

A. The U.S. Environmental Protection Agency (EPA) and other public health institutions have identified and documented the serious health impacts caused by exposure to elevated levels of ozone pollution. As identified by EPA, these impacts can include respiratory and cardiovascular disease, increased rates of asthma and cardiopulmonary illness, hospitalizations, and premature death. (<https://www.federalregister.gov/documents/2015/10/26/2015-26594/national-ambient-air-quality-standards-for-ozone> (Oct. 26, 2015) [Oct. 11, 2021, 2:52 p.m.]) Short-term ozone exposure has also been shown to decrease lung function, cause respiratory inflammation, exacerbate allergies, and increase emergency room visits and hospitalizations. *Id.*

EPA air quality monitoring data from all three monitoring sites in the Greater Carlsbad region of southeastern New Mexico demonstrates that the air quality in this part of the state has been and continues to exceed the National Ambient Air Quality Standards for ozone. The current national standard for ozone is 70 ppb, but monitors in southeast New Mexico have registered design values as high as 79 ppb in recent years. In the recent ozone precursor rulemaking for the oil and gas sector, the New Mexico Environment Department testified and acknowledged ozone violations have been occurring in southeast New Mexico, but as I stated in my comments on the proposed permits at issue in this hearing, air quality monitoring data indicate southeast New Mexico is continuing to violate the ozone NAAQS. Guardians Exhibit 3 at 4. Ozone at these levels is a threat to public health, and it's for this reason that Guardians and other members of the public have more strictly scrutinized the proposal of air quality permits in this region that would authorize more ozone-forming emissions.

Furthermore, Guardians is overall concerned with the need to ensure proper enforcement of limits on air pollution from oil and gas facilities in order to protect other ambient air quality standards, human health more generally, and to address environmental justice concerns. We have reason to conclude the proposed permits would not properly limit emissions such that human health will be protected, ambient air quality standards will be attained and maintained, and that environmental justice will be achieved.

Q. DO GUARDIANS' MEMBERS, SUPPORTERS, AND OTHER MEMBERS OF THE PUBLIC SHARE A SIGNIFICANT INTEREST IN THE PROPOSED PERMITS AND OTHERS?

A. Yes, Guardians is headquartered in New Mexico and we have many members in the state who are concerned about ozone pollution and other toxic emissions from oil and gas facilities. Members of the general public in New Mexico have also shown significant concern and interest in the issue of ozone pollution, as recently demonstrated in the Environmental Improvement Board's rulemaking hearing regarding the Department's Ozone Attainment Initiative.

Q. CAN YOU PLEASE DESCRIBE GENERALLY HOW GUARDIANS ATTEMPTED TO RAISE ITS CONCERNS TO THE ENVIRONMENT DEPARTMENT REGARDING THE 10 PROPOSED PERMITS AT ISSUE IN THIS HEARING?

A. Guardians participated in the public review process by reviewing documents pertaining to the proposed permits as the Environment Department released them and submitting comments, expressing our concerns and presenting questions we had about the proposed permits and associated documentation.

Q. AFTER GUARDIANS FILED COMMENT ON A PROPOSED PERMIT, DID

**THE ENVIRONMENT DEPARTMENT ISSUE A RESPONSE TO GUARDIANS
COMMENTS THAT ADDRESSED OR ANSWERED GUARDIANS' CONCERNS
AND QUESTIONS?**

A. Generally, no. Other than letters indicating the Environment Department's public hearing determinations or letters notifying us when new documents were available for review, we never received a response from the Environment Department, addressing our concerns, on any of the 10 proposed permits at issue in this hearing. In some instances, the Department notified us when it issued revisions to a draft permit or statement of basis, but even in those instances it was sometimes difficult to tell exactly what the Department's revisions were being made in response to. Without a response to our comments, we had no recourse other than to continue to raise the same issues, as we identified them in subsequent permit proposals, to preserve these issues for review.

III. BULLDOG COMPRESSOR STATION, AQB 21-31

Q. WHEN DID GUARDIANS SUBMIT COMMENTS ON THIS PROPOSED PERMIT?

A. The Environment Department published its Legal Notice and Preliminary Determination for this facility on October 27, 2020, providing the public 30 days with which to submit written comments. Guardians submitted written comments, dated November 24, 2020, based on this legal notice. On May 28, 2021, Guardians received a letter from the Environment Department thanking us for our interest in this permit and notifying us that the Department's analysis of the permit application was made available for public comment and review on its webpage. Following receipt of this letter, Guardians submitted a second set of written comments, dated June 28, 2021, on the Department's analysis of the permit application and proposed permit.

Q. CAN YOU PLEASE SUMMARIZE THE ISSUES GUARDIANS RAISED IN ITS COMMENTS ON THIS PROPOSED PERMIT?

A. Guardians raised several issues in its comments on this facility, including: legal notice, ozone, the enforceability of startup, shutdown, maintenance, and malfunction (SSM/M) emission limits, absent operating permit, compliance analysis, environmental justice, pneumatic controllers, nitrogen dioxide (NO₂) ambient air quality analysis, and miscellaneous issues.

Q. DID GUARDIANS EVER RECEIVE A SUBSTANTIVE RESPONSE TO ITS COMMENTS FROM THE ENVIRONMENT DEPARTMENT?

A. No.

Q. WHAT IS GUARDIANS' POSITION ON THIS PROPOSED PERMIT?

A. Guardians opposes the proposed permit modification for the Bulldog facility, and the Department must deny the permit application for the reasons I discuss later in my testimony, as well as provide information and answer questions Guardians raised in its comment submissions.

a. Legal Notice

Q. CAN YOU PLEASE EXPLAIN GUARDIANS' COMMENT AND CONCERN RELATED TO THE ISSUE OF LEGAL NOTICE?

A. Guardians commented that the Environment Department's legal notice to the public that the Department was considering this facility and soliciting public comment was inadequate amidst the circumstances of a global pandemic. The Department's legal notice and, as a result, the applicant's legal notice stated that the singular method for submitting public comment on the proposed permit was through mailing a hardcopy of any comments to the Environment Department's physical address. Guardians' comments informed the Department that its instructions limiting public comment to mail-in comments only, may have prevented or dissuaded some members of the public, particularly the elderly, immune-compromised individuals, and those with co-morbidities, from participating in the public review process because of the public health risk of contracting COVID-19 through purchasing stamps, entering a post office, printing comments at an office supply store, etc.

Although Guardians was able to determine that comment submission through electronic mail was acceptable despite the instructions in the Department's legal notice, this was due to prior experience and interactions with the Department. Other members of the public may not have had the prior experience to understand this option existed. According to the Construction Permit regulations adopted pursuant to New Mexico's Air Quality Control Act, the Department is required to publish a public notice that "describe[s] the manner in which comments or

evidence may be submitted to the department,” regarding a pending application for an air quality permit or permit revision. 20.2.72.206.A.(3) NMAC. Similarly, any person seeking a construction permit under 20.2.72. NMAC is also required to include a public notice in their permit application that includes “[t]he current address of the department to which comments and inquiries may be directed” and a public service announcement that includes “[t]he address or telephone number at which comments and inquiries may be directed to the department. 20.2.72.203.C.(6) and D.(5).

Q. TO YOUR KNOWLEDGE, HAS THE ENVIRONMENT DEPARTMENT REVISED AND REISSUED THE PUBLIC NOTICE FOR THIS PROPOSED PERMIT?

A. No.

Q. TO YOUR KNOWLEDGE, HAS THE PERMIT APPLICANT REVISED AND REISSUED THE PUBLIC NOTICE AND PUBLIC SERVICE ANNOUNCEMENT FOR THIS PERMIT?

A. No.

Q. HAS THE ENVIRONMENT DEPARTMENT REVISED AND REISSUED PUBLIC NOTICES FOR SIMILAR PROPOSED PERMITS, ACCORDING TO GUARDIANS’ COMMENT AND CONCERN?

A. Yes, the Environment Department revised and reissued public notices for the Zia Hills, Willow Lake, Maverick, Spartan, and Tiger proposed permits, all of which are also part of this hearing, to clarify to the public that the Department would accept written comments by electronic mail and the email address where comments should be sent.

Q. GIVEN ALL THIS, WHAT IS GUARDIANS’ POSITION ON THE ADEQUACY

**OF THE ENVIRONMENT DEPARTMENT'S PUBLIC NOTICE FOR THIS
PROPOSED PERMIT?**

A. By not communicating in its public notice that comments could be submitted electronically and by not identifying the email address where those comments could be submitted, the Environment Department has not complied with its public notice obligations under 20.2.27. NMAC. Given the public health implications of the additional pollution proposed to be emitted by this facility and the public significant interest in this pollution and its health impacts, the Department's omission of the information necessary to comment on this proposed permit safely, during a global pandemic, is significant and should be remedied before this permit is given further consideration.

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A series of 20 horizontal black bars of varying lengths, representing a list of redacted text. The bars are arranged in a single column, with some bars being significantly longer than others, suggesting a list of items of different lengths. The bars are solid black and have no text or other markings on them.

c. SSM/M Emission Limits

Q. CAN YOU PLEASE EXPLAIN GUARDIANS' COMMENT AND CONCERN RELATED TO THE ISSUE OF THE ENFORCEABILITY OF THE STARTUP, SHUTDOWN, MAINTENANCE AND MALFUNCTION (SSM/M) EMISSION LIMITS IN THE PROPOSED PERMIT?

A. Guardians submitted comments on the Department's proposed emission limits for this facility's air pollutant emissions during particular operational events, including startup, shutdown, maintenance, and malfunction (SSM/M). EPA guidance documents explain that a key principle and requirement for all emission limits relied on to determine potential to emit is that each limit must be both federally enforceable and enforceable as a practical matter. (<https://www.epa.gov/sites/default/files/2015-07/documents/lmitpotl.pdf> [Oct. 11, 2021, 3:04 p.m.], <https://www.epa.gov/sites/default/files/2015-07/documents/nescaum.pdf> [Oct. 11, 2021, 3:05 p.m.]).

For the proposed modification to the Bulldog facility, the Department proposed several emission limits for different emitting components of the Bulldog facility, during SSM/M events, in section A107 of the proposed permit. However, the proposed permit does not include monitoring, recordkeeping, or reporting requirements that would enable the Department (or members of the public) to ensure the emission limits are not exceeded.

Specifically, the emission limits at section A107 of the proposed permit for the SSM Unit, MALFUNCTION unit, and FL1-FL2 SSM are not enforceable given the monitoring, recordkeeping, and reporting requirements established for these units in the proposed permit. For

the SSM unit, the proposed permit does not require the volume of gas vented during SSM to be measured by a meter or other means of volumetric measurement. Without such a measurement, it is unclear how gas vented during these events will be accurately measured to ensure compliance with the annual 10 ton per year VOC emission limit. Guardians raised similar concerns with regard to the MALFUNCTION unit and the proposed permit's 10 ton per year VOC emission limit.

Similarly, the Department's proposed emission limit for the FL1-FL2 SSM unit, authorizes pounds per hour and tons per year emissions of NO_x, CO, VOC, sulfur dioxide (SO₂), particulate matter less than 10 microns in diameter (PM₁₀), and particulate matter less than 2.5 microns in diameter (PM_{2.5}) without any restriction on the frequency or duration of flaring during SSM. With no restriction on the frequency or duration of flaring during SSM, the annual emission rates are unenforceable as a practical matter. For example, although the permit limits SSM flaring VOC emissions to 18.4 tons per year, with no restrictions on the frequency or duration of flaring, as a practical matter, the permit would allow the facility to emit more than 4,000 tons of VOCs annually based on the permit's hourly limit of 993 pounds per hour. Absent restrictions on the frequency or duration of these emissions it is unclear how the proposed emission limits could be practically complied with and enforced.

**Q. GIVEN ALL THIS, WHAT IS GUARDIANS' POSITION ON THE
DEPARTMENT'S PROPOSED EMISSION LIMITS FOR SSM/M FOR THIS
FACILITY?**

A. Because these emission limits are not enforceable, the Environment Department may not grant this permit application unless and until the proposed emission limits are revised to ensure their enforceability.

d. Operating Permit

Q. CAN YOU PLEASE EXPLAIN GUARDIANS' COMMENT AND CONCERN RELATED TO THE ISSUE OF THIS FACILITY LACKING AN OPERATING PERMIT?

A. Guardians submitted comments raising a concern that according to the permit application for the Bulldog facility, its owner, XTO Energy, Inc. (XTO), has not yet applied for an operating permit, as required by federal regulation 40 C.F.R. § 70.5(a)(1)(i). This regulation requires that facilities subject to federal rules at 40 C.F.R. Part 70 – meaning facilities that directly or have the potential to emit 100 or more tons per year of any air pollutant – must apply for operating permits from the Environment Department within 12 months after becoming subject to Part 70 operating permit requirements, if the source is a first time applicant. If a source does not submit a timely and complete permit application, it is not allowed to operate until it obtains and operates in compliance with a Part 70 operating permit.

Q. IS PART 70 APPLICABLE TO THE BULLDOG FACILITY?

A. Yes. On May 8, 2019, the Department authorized the Bulldog facility to construct and emit 100 or more tons per year of an air pollutant subject to regulation. This triggered a requirement for XTO to submit an application for an initial Part 70 operating permit.

Q. HAS XTO APPLIED FOR A PART 70 OPERATING PERMIT?

A. Not to my knowledge. It has now been more than two years that XTO has been required to submit an operating permit application.

Q. IS XTO OPERATING THE BULLDOG FACILITY?

A. To my knowledge, yes. The applicant's permit application, dated August 31, 2020, also indicates that the Bulldog facility is currently operating in New Mexico.

Q. GIVEN ALL THIS, WHAT IS GUARDIANS' POSITION ON THIS PROPOSED PERMIT AS IT RELATES TO THE ABSENT OPERATING PERMIT APPLICATION?

A. The Environment Department must deny any application for a permit that would not meet applicable requirements of the Air Quality Control Act (AQCA) or the federal Clean Air Act. *See* 20.2.72.208A. and F. Accordingly, the Department must deny this permit application because the Bulldog facility is violating applicable regulations of the AQCA by not applying for a timely and complete operating permit, and now operating the Bulldog facility without obtaining an operating permit in compliance with a Part 70 permit. Until the Bulldog facility obtains and operates in compliance with a Part 70 permit, the proposed permit cannot be approved.

e. Compliance Tests

Q. CAN YOU PLEASE EXPLAIN GUARDIANS' COMMENT AND CONCERN RELATED TO THE ISSUE OF THE COMPLIANCE ANALYSIS FOR THIS FACILITY?

A. The Environment Department's Statement of Basis, which presents the Department's analysis of the permit application and proposed permit for this facility, indicated that since this facility was first permitted in 2019, no compliance tests had been performed. Guardians submitted comments raising the concern that a significant amount of time had passed without a compliance test for this facility, given the fact that XTO has indicated the facility is currently operating. Guardians requested the Department explain why no compliance tests have been conducted to date and whether the omission of a compliance test complies with applicable legal requirements.

Q. DID THE ENVIRONMENT DEPARTMENT SUBSTANTIVELY RESPOND TO THIS COMMENT?

A. No.

Q. GIVEN ALL THIS, WHAT IS GUARDIANS' POSITION ON THE PROPOSED PERMIT?

A. Absent a response and answers to the concerns we raised, the proposed permit should be denied. Section 20.2.72.208 NMAC lists the bases on which the Environment Department must deny a permit application, including whether the construction, modification, or permit revision will not meet applicable regulations adopted pursuant to the AQCA, whether the source will emit a hazardous air pollutant or an air contaminant in excess of any applicable New Source Performance Standard or National Emission Standard for Hazardous Air Pollutants or a regulation of the board, and whether the construction, modification, or permit revision will cause or contribute to air contaminant levels in excess of any National Ambient Air Quality Standard or New Mexico ambient air quality standard. The results from a compliance test could form the basis on which the Department must deny this permit application, which is why Guardians requested more information from the Department.

f. Environmental Justice

Q. CAN YOU PLEASE EXPLAIN GUARDIANS' COMMENT AND CONCERN RELATED TO THE ISSUE OF ENVIRONMENTAL JUSTICE?

A. Guardians submitted comments, requesting that the Environment Department share its analysis and determination for how the proposed permit modification and associated increase in air pollution will not disproportionately impact low-income communities and communities of color, pursuant to New Mexico Executive Order 2005-056. That executive order directs the

Environment Department to, among other things, “utilize available environmental and public health data to address impacts in low-income communities and communities of color as well as in determining siting, permitting, compliance, enforcement, and remediation of existing and proposed industrial and commercial facilities.”

Q. DID THE ENVIRONMENT DEPARTMENT SUBSTANTIVELY RESPOND TO THIS COMMENT?

A. No.

Q. GIVEN ALL THIS, WHAT IS GUARDIANS’ POSITION ON THE PROPOSED PERMIT?

A. Air pollution is well understood to have inordinate impacts on low-income communities and communities of color. As I discussed earlier, the area in which air pollution will increase as a result of granting the proposed permit application already exceeds the national limit for ozone pollution, which suggests that low-income communities, communities of color, and the general population may already be suffering serious health consequences from local and regional air pollution. Without the Environment Department’s environmental justice analysis of the proposed permit application, it is unclear whether and to what extent the Department has used available environmental and public health data to address the health impacts to low-income communities and communities of color to which the proposed facility may contribute, as well as whether and to what extent the Department used this information in this permitting determination. Absent this information, a Department determination granting the proposed permit would violate New Mexico’s Executive Order 2005-056. Accordingly, and based on the information currently available, Guardians requests the Department deny the proposed permit.

g. Pneumatic Controllers

**Q. CAN YOU PLEASE EXPLAIN GUARDIANS' COMMENT AND CONCERN
RELATED TO THE ISSUE OF PNEUMATIC CONTROLLERS?**

A. Guardians submitted comments raising the concern that the information the Environment Department released for the proposed permit modification did not include an identification and analysis of the number of gas-actuated pneumatic controllers at the Bulldog facility or an estimate of the total VOC emissions expected to be released from these point sources of emissions. This information is necessary to getting a complete understanding of the nature and quantity of the emissions proposed by the permit application and confirming the facility's potential to emit.

**Q. DID THE ENVIRONMENT DEPARTMENT SUBSTANTIVELY RESPOND TO
THIS COMMENT?**

A. No.

**Q. GIVEN ALL THIS, WHAT IS GUARDIANS' POSITION ON THE PROPOSED
PERMIT?**

A. Absent data and analysis of the total number of gas-actuated pneumatic controllers and their associated emissions at the Bulldog facility, the Department must deny this permit application. A core requirement in all permit applications submitted under Subsection A of 20.2.72.200 NMAC is to "[p]rovide all information, including all calculations and computations, to describe the specific chemical and physical nature and to estimate the maximum quantities of any regulated air contaminants the source will emit through routine operations after construction, modification or installation is completed, and estimate maximum potential emissions during malfunction, startup, shutdown." 20.2.72.203.A.(3) NMAC. Information about this facility's pneumatic controllers does not appear to be available in the applicant's application or the

Environment Department's associated analysis of the application, and the application, therefore, must be denied.

h. NO2 Ambient Air Quality Standards

Q. CAN YOU PLEASE EXPLAIN GUARDIANS' COMMENT AND CONCERN RELATED TO THE ISSUE OF NO2 AMBIENT AIR QUALITY STANDARDS?

A. Guardians submitted comments sharing an overarching concern that based on the information and analysis the Department made available to the public, it was difficult to understand the basis on which the Department justified and determined that the proposed permit modification would not cause or contribute to violations of the 1-hour NO2 NAAQS. One of the reasons we raised this concern was based on the modeling results the applicant included in its permit application, indicating that the modeled concentration of NO2 that the Bulldog facility would contribute to the current ambient concentration of NO2 would push the ambient concentration of NO2 very close to the 1-hour NAAQS standard for NO2 – to within 92% of the standard as reported by the applicant.

Q. WHAT INFORMATION WOULD HELP YOU UNDERSTAND THE BASIS ON WHICH THE DEPARTMENT JUSTIFIED ITS DETERMINATION THAT THE PROPOSED MODIFICATION WOULD NOT VIOLATE THE 1-HOUR NAAQS FOR NO2?

A. Guardians requested more information from the Department to help clarify three main aspects of the potential impacts from increased NO2 emissions as a result of the proposed permit modification: 1) Information to confirm that the Bulldog facility's maximum potential to emit emission rates were used in the NO2 modeling; 2) information to confirm that the NO2 modeling included and captured expected hourly SSM and malfunction emissions from adjacent facilities

and truck and heavy machinery traffic adjacent to the Bulldog facility; and 3) information to confirm that the background hourly NO₂ value is representative of the area where the Bulldog facility is located.

Q. DID THE ENVIRONMENT DEPARTMENT SUBSTANTIVELY RESPOND TO THIS COMMENT OR PROVIDE ANY OF THE REQUESTED INFORMATION?

A. No.

Q. GIVEN ALL THIS, WHAT IS GUARDIANS' POSITION ON THE PROPOSED PERMIT?

A. Absent this information we are unable to confirm that the applicant or Department's analysis accurately demonstrates that the proposed emissions from routine operations of the Bulldog facility, as proposed, will not violate the 1-hour NAAQS for NO₂. 20.2.72.203.A.(4) NMAC. Accordingly, the applicant or the Department must provide this information, or the Department must deny the permit application.

i. Miscellaneous

Q. CAN YOU PLEASE EXPLAIN GUARDIANS' COMMENT AND CONCERN RELATED TO THE MISCELLANEOUS ISSUES RAISED IN GUARDIANS' COMMENT SUBMITTAL?

A. Guardians submitted comments raising two miscellaneous concerns, both regarding the Department's analysis of the applicant's permit application for the Bulldog facility. Guardians' first comment noted that the permit application stated that XTO had not submitted or secured approval of its modeling protocol, and Guardians requested the Environment Department explain why submission and approval of XTO's modeling protocol was not required in this instance.

Guardians' second comment noted that XTO's modeling results associated with the proposed permit modification indicated that modeled concentrations of carbon monoxide (CO), sulfur dioxide (SO₂), and NO₂ from surrounding sources were "N/A" or not applicable, and Guardians requested the Environment Department explain whether or not the applicant's "not applicable" determination was accurate and proper. Guardians also requested the Department provide in its explanation a copy of the Air Quality Bureau's surrounding source inventory, on which XTO based its modeling.

Q. DID THE ENVIRONMENT DEPARTMENT SUBSTANTIVELY RESPOND TO THIS COMMENT OR PROVIDE ANY OF THE REQUESTED INFORMATION?

A. No.

Q. GIVEN ALL THIS, WHAT IS GUARDIANS' POSITION ON THE PROPOSED PERMIT?

A. Similar to the comments and concerns Guardians raised with respect to NO₂ modeling, absent the information we requested from the Environment Department we are unable to confirm whether or not the applicant accurately and properly conducted the modeling it used to support the proposed permit application and whether or not the Department was justified in accepting the modeling results provided by the applicant and concluding that the proposed permit modification would not violate any New Mexico or National Ambient Air Quality Standard. Accordingly, the Department must provide this information or deny the permit application.

j. Conclusion

Q. DOES THIS CONCLUDE YOUR TESTIMONY FOR THE PROPOSED PERMIT TO MODIFY THE BULLDOG COMPRESSOR STATION, IN AQB 21-31?

A. Yes.

IV. JAYHAWK COMPRESSOR STATION, AQB 21-32

Q. WHEN DID GUARDIANS SUBMIT COMMENTS ON THIS PROPOSED PERMIT?

A. The Environment Department published its Legal Notice and Preliminary Determination for this facility on November 3, 2020, providing the public 30 days with which to submit written comments. Guardians submitted written comments, dated December 3, 2020, based on this legal notice. On May 28, 2021, Guardians received a letter from the Environment Department thanking us for our interest in this permit and notifying us that the Department's analysis of the permit application was made available for public comment and review on its webpage. Following receipt of this letter, Guardians submitted a second set of written comments, dated June 28, 2021 on the Department's analysis of the permit application and proposed permit.

Q. CAN YOU PLEASE SUMMARIZE THE ISSUES GUARDIANS RAISED IN ITS COMMENTS ON THIS PROPOSED PERMIT?

A. Guardians raised several issues in its comments on this facility, including: legal notice, ozone, the enforceability of SSM/M emission limits, absent operating permit, compliance analysis, environmental justice, pneumatic controllers, NO2 ambient air quality analysis, and miscellaneous issues.

Q. DID GUARDIANS EVER RECEIVE A SUBSTANTIVE RESPONSE TO ITS COMMENTS FROM THE ENVIRONMENT DEPARTMENT?

A. No.

Q. WHAT IS GUARDIANS' POSITION ON THIS PROPOSED PERMIT?

A. Guardians opposes the proposed permit modification for the Jayhawk facility, and the Department must deny the permit application for the reasons I discuss later in my testimony, as well as provide information and answer questions Guardians raised in its comment submissions.

a. Legal Notice

Q. DID GUARDIANS SUBMIT COMMENTS ON THE ISSUE OF LEGAL NOTICE, AS IT RELATES TO THE PROPOSED PERMIT FOR THE JAYHAWK FACILITY?

A. Yes.

Q. ARE THOSE COMMENTS SUBSTANTIALLY THE SAME AS THOSE COMMENTS GUARDIANS SUBMITTED ON THE ISSUE OF LEGAL NOTICE FOR THE BULLDOG FACILITY, IN AQB 21-31?

A. Yes.

Q. TO AVOID BEING UNDULY REPETITIOUS, DO YOU ADOPT YOUR TESTIMONY IN AQB 21-31, ON PAGES 8 TO 10, ON THE ISSUE OF LEGAL NOTICE AS YOUR TESTIMONY IN AQB 21-32 ON THE SAME ISSUE?

A. Yes.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

c. SSM/M Emission Limits

Q. DID GUARDIANS SUBMIT COMMENTS ON THE ISSUE OF PROPOSED SSM/M EMISSION LIMITS, AS IT RELATES TO THE PROPOSED PERMIT FOR THE JAYHAWK FACILITY?

A. Yes.

Q. ARE THOSE COMMENTS SUBSTANTIALLY THE SAME AS THOSE COMMENTS GUARDIANS SUBMITTED ON THE ISSUE OF PROPOSED SSM/M EMISSION LIMITS FOR THE BULLDOG FACILITY, IN AQB 21-31?

A. Yes, but for the Jayhawk facility the unenforceable emission limits Guardians commented on apply to the units identified as “SSM Flaring (FL1/FL2),” “SSM from ENG1-9, ENG11-12,” and “M” set forth at section A107 of the proposed permit. “SSM Flaring (FL1/FL2)” refers to routine and predictable startup, shutdown, and maintenance. “SSM from ENG1-9, ENG11-12” refers to compressor and associated piping blowdowns during routine and predictable startup, shutdown, and/or maintenance. “M” refers to venting of gas due to malfunction.

Q. TO AVOID BEING UNDULY REPETITIOUS, DO YOU ADOPT YOUR TESTIMONY IN AQB 21-31, ON PAGES 13 TO 14, ON THE ISSUE OF

**PROPOSED SSM/M EMISSION LIMITS AS YOUR TESTIMONY IN AQB 21-32
ON THE SAME ISSUE?**

A. Yes, in general. For the “SSM from ENG1-9, ENG11-12” and “M” units, the proposed permit does not require the volume of gas vented to be measured by a meter or other means of volumetric measurement. Without such a measurement, it is unclear how gas vented during these events will be accurately measured to ensure compliance with the respective annual 10 ton per year VOC emission limits.

For the “SSM Flaring (FL1/FL2)” unit, the proposed permit authorizes pounds per hour and tons per year emissions of NO_x, CO, VOC, SO₂, PM₁₀, and PM_{2.5} without any restriction on the frequency or duration of flaring during SSM. With no restriction on the frequency or duration of flaring during SSM, the annual emission rates are unenforceable as a practical matter. For example, although the permit limits SSM flaring VOC emissions to 18.4 tons per year, with no restrictions on the frequency or duration of flaring, as a practical matter, the permit would allow the facility to emit more than 4,000 tons of VOCs annually based on the permit’s hourly limit of 993 pounds per hour and the presumption of operating 8,760 hours annually. Absent restrictions on the frequency or duration of these emissions it is unclear how the proposed annual emission limits could be practically complied with and enforced.

d. Operating Permit

Q. DID GUARDIANS SUBMIT COMMENTS ON THE ISSUE OF OPERATING PERMITS, AS IT RELATES TO THE PROPOSED PERMIT FOR THE JAYHAWK FACILITY?

A. Yes.

Q. ARE THOSE COMMENTS SUBSTANTIALLY THE SAME AS THOSE

COMMENTS GUARDIANS SUBMITTED ON THE ISSUE OF OPERATING PERMITS FOR THE BULLDOG FACILITY, IN AQB 21-31?

A. Yes, but for the Jayhawk facility the Environment Department authorized the facility to emit 100 or more tons per year of an air pollutant subject to regulation on May 8, 2019. This means XTO was required to submit an application for a Part 70 permit by May 8, 2020. To my knowledge, no application has been submitted.

Q. TO AVOID BEING UNDULY REPETITIOUS, DO YOU ADOPT YOUR TESTIMONY IN AQB 21-31, ON PAGES 15 TO 16, ON THE ISSUE OF OPERATING PERMITS AS YOUR TESTIMONY IN AQB 21-32 ON THE SAME ISSUE?

A. Yes.

e. Compliance Tests

Q. DID GUARDIANS SUBMIT COMMENTS ON THE ISSUE OF COMPLIANCE TESTS, AS IT RELATES TO THE PROPOSED PERMIT FOR THE JAYHAWK FACILITY?

A. Yes.

Q. ARE THOSE COMMENTS SUBSTANTIALLY THE SAME AS THOSE COMMENTS GUARDIANS SUBMITTED ON THE ISSUE OF COMPLIANCE TESTS FOR THE BULLDOG FACILITY, IN AQB 21-31?

A. Yes.

Q. TO AVOID BEING UNDULY REPETITIOUS, DO YOU ADOPT YOUR TESTIMONY IN AQB 21-31, ON PAGES 16 TO 17, ON THE ISSUE OF COMPLIANCE TESTS AS YOUR TESTIMONY IN AQB 21-32 ON THE SAME

ISSUE?

A. Yes.

f. Environmental Justice

Q. DID GUARDIANS SUBMIT COMMENTS ON THE ISSUE OF ENVIRONMENTAL JUSTICE, AS IT RELATES TO THE PROPOSED PERMIT FOR THE JAYHAWK FACILITY?

A. Yes.

Q. ARE THOSE COMMENTS SUBSTANTIALLY THE SAME AS THOSE COMMENTS GUARDIANS SUBMITTED ON THE ISSUE OF ENVIRONMENTAL JUSTICE FOR THE BULLDOG FACILITY, IN AQB 21-31?

A. Yes.

Q. TO AVOID BEING UNDULY REPETITIOUS, DO YOU ADOPT YOUR TESTIMONY IN AQB 21-31, ON PAGES 17 TO 18, ON THE ISSUE OF ENVIRONMENTAL JUSTICE AS YOUR TESTIMONY IN AQB 21-32 ON THE SAME ISSUE?

A. Yes.

g. Pneumatic Controllers

Q. DID GUARDIANS SUBMIT COMMENTS ON THE ISSUE OF PNEUMATIC CONTROLLERS, AS IT RELATES TO THE PROPOSED PERMIT FOR THE JAYHAWK FACILITY?

A. Yes.

Q. ARE THOSE COMMENTS SUBSTANTIALLY THE SAME AS THOSE COMMENTS GUARDIANS SUBMITTED ON THE ISSUE OF PNEUMATIC

CONTROLLERS FOR THE BULLDOG FACILITY, IN AQB 21-31?

A. Yes.

Q. TO AVOID BEING UNDULY REPETITIOUS, DO YOU ADOPT YOUR TESTIMONY IN AQB 21-31, ON PAGES 18 TO 20, ON THE ISSUE OF PNEUMATIC CONTROLLERS AS YOUR TESTIMONY IN AQB 21-32 ON THE SAME ISSUE?

A. Yes.

h. NO2 Ambient Air Quality Standards

Q. DID GUARDIANS SUBMIT COMMENTS ON THE ISSUE OF NO2 AMBIENT AIR QUALITY STANDARDS, AS IT RELATES TO THE PROPOSED PERMIT FOR THE JAYHAWK FACILITY?

A. Yes.

Q. ARE THOSE COMMENTS SUBSTANTIALLY THE SAME AS THOSE COMMENTS GUARDIANS SUBMITTED ON THE ISSUE OF NO2 AMBIENT AIR QUALITY STANDARDS FOR THE BULLDOG FACILITY, IN AQB 21-31?

A. Yes, but the applicant indicated the Jayhawk facility would push the ambient concentration of NO2 to within 93% of the standard.

Q. TO AVOID BEING UNDULY REPETITIOUS, DO YOU ADOPT YOUR TESTIMONY IN AQB 21-31, ON PAGES 20 TO 21, ON THE ISSUE OF NO2 AMBIENT AIR QUALITY STANDARDS AS YOUR TESTIMONY IN AQB 21-32 ON THE SAME ISSUE?

A. Yes.

i. Miscellaneous

Q. DID GUARDIANS SUBMIT COMMENTS ON SEVERAL MISCELLANEOUS ISSUES, AS THEY RELATE TO THE PROPOSED PERMIT FOR THE JAYHAWK FACILITY?

A. Yes.

Q. ARE THOSE COMMENTS SUBSTANTIALLY THE SAME AS THOSE COMMENTS GUARDIANS SUBMITTED ON THE MISCELLANEOUS ISSUES FOR THE BULLDOG FACILITY, IN AQB 21-31?

A. Yes, but Guardians submitted one additional comment regarding miscellaneous issues associated with the proposed permit for the Jayhawk facility.

Q. TO AVOID BEING UNDULY REPETITIOUS, DO YOU ADOPT YOUR TESTIMONY IN AQB 21-31, ON PAGES 21 TO 22, REGARDING MISCELLANEOUS ISSUES AS YOUR TESTIMONY IN AQB 21-32 ON THE SAME ISSUE?

A. Yes.

Q. CAN YOU PLEASE EXPLAIN THE ONE ADDITIONAL MISCELLANEOUS ISSUE GUARDIANS RAISED IN RELATION TO THE JAYHAWK FACILITY?

A. The Environment Department's initial draft Statement of Basis associated with the proposed permit for the Jayhawk facility indicated that the modeling report used to support the permit application was conducted on April 4, 2019. Guardians requested that the Department explain whether or not the applicant should have produced a more recent modeling report for the Jayhawk facility to account for changes in ambient air quality and surrounding emission sources. The Environment Department revised its Statement of Basis for this facility at a later date to

indicate that the modeling report used to support the permit application was completed on January 4, 2021. Given this, we believe this issue is resolved.

j. Conclusion

**Q. DOES THIS CONCLUDE YOUR TESTIMONY FOR THE PROPOSED PERMIT
TO MODIFY THE JAYHAWK COMPRESSOR STATION, IN AQB 21-32?**

A. Yes.

V. LONGHORN COMPRESSOR STATION, AQB 21-33

Q. WHEN DID GUARDIANS SUBMIT COMMENTS ON THIS PROPOSED PERMIT?

A. The Environment Department published its Legal Notice and Preliminary Determination for this facility on November 3, 2020, providing the public 30 days with which to submit written comments. Guardians submitted written comments, dated December 3, 2020, based on this legal notice. On May 28, 2021, Guardians received a letter from the Environment Department thanking us for our interest in this permit and notifying us that the Department's analysis of the permit application was made available for public comment and review on its webpage. Following receipt of this letter, Guardians submitted a second set of written comments, dated June 28, 2021, on the Department's analysis of the permit application and proposed permit.

Q. CAN YOU PLEASE SUMMARIZE THE ISSUES GUARDIANS RAISED IN ITS COMMENTS ON THIS PROPOSED PERMIT?

A. Guardians raised several issues in its comments on this facility, including: legal notice, ozone, the enforceability of SSM/M emission limits, compliance analysis, environmental justice, pneumatic controllers, NO₂ ambient air quality analysis, and miscellaneous issues.

Q. DID GUARDIANS EVER RECEIVE A SUBSTANTIVE RESPONSE TO ITS COMMENTS FROM THE ENVIRONMENT DEPARTMENT?

A. No.

Q. WHAT IS GUARDIANS' POSITION ON THIS PROPOSED PERMIT?

A. Guardians opposes the proposed permit modification for the Longhorn facility, and the Department must deny the permit application for the reasons I discuss later in my testimony, as well as provide information and answer questions Guardians raised in its comment submissions.

a. Legal Notice

Q. DID GUARDIANS SUBMIT COMMENTS ON THE ISSUE OF LEGAL NOTICE, AS IT RELATES TO THE PROPOSED PERMIT FOR THE LONGHORN FACILITY?

A. Yes.

Q. ARE THOSE COMMENTS SUBSTANTIALLY THE SAME AS THOSE COMMENTS GUARDIANS SUBMITTED ON THE ISSUE OF LEGAL NOTICE FOR THE BULLDOG FACILITY, IN AQB 21-31?

A. Yes.

Q. TO AVOID BEING UNDULY REPETITIOUS, DO YOU ADOPT YOUR TESTIMONY IN AQB 21-31, ON PAGES 8 TO 10, ON THE ISSUE OF LEGAL NOTICE AS YOUR TESTIMONY IN AQB 21-33 ON THE SAME ISSUE?

A. Yes.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

c. SSM/M Emission Limits

Q. DID GUARDIANS SUBMIT COMMENTS ON THE ISSUE OF PROPOSED SSM/M EMISSION LIMITS, AS IT RELATES TO THE PROPOSED PERMIT FOR THE LONGHORN FACILITY?

A. Yes.

Q. ARE THOSE COMMENTS SUBSTANTIALLY THE SAME AS THOSE COMMENTS GUARDIANS SUBMITTED ON THE ISSUE OF PROPOSED SSM/M EMISSION LIMITS FOR THE BULLDOG FACILITY, IN AQB 21-31?

A. Yes, but for the Longhorn facility the unenforceable emission limits Guardians commented on apply to the units identified as “SSM,” “Malfunction,” and “FL1-FL2 SSM” set forth at section A107 of the proposed permit. “SSM” refers to compressor and associated piping blowdowns. “Malfunction” refers to venting of gas during malfunction. “FL1-FL2 SSM” refers to startup, shutdown, and maintenance emissions from flares FL1 and FL2.

Q. TO AVOID BEING UNDULY REPETITIOUS, DO YOU ADOPT YOUR TESTIMONY IN AQB 21-31, ON PAGES 13 TO 14, ON THE ISSUE OF PROPOSED SSM/M EMISSION LIMITS AS YOUR TESTIMONY IN AQB 21-33 ON THE SAME ISSUE?

A. Yes, in general. For the “SSM” and “Malfunction” unit, the proposed permit does not require the volume of gas vented to be measured by a meter or other means of volumetric measurement. Without such a measurement, it is unclear how gas vented during these events will

be accurately measured to ensure compliance with the respective annual 10 tons per year VOC emission limits.

For the “FL1-FL2 SSM” unit, the proposed permit authorizes pounds per hour and tons per year emissions of NO_x, CO, VOC, SO₂, PM₁₀, and PM_{2.5} without any restriction on the frequency or duration of flaring during SSM. With no restriction on the frequency or duration of flaring during SSM, the annual emission rates are unenforceable as a practical matter. For example, although the permit limits SSM flaring VOC emissions to 18.4 tons per year, with no restrictions on the frequency or duration of flaring, as a practical matter, the permit would allow the facility to emit more than 4,000 tons of VOCs annually based on the permit’s hourly limit of 993 pounds per hour. Absent restrictions on the frequency or duration of these emissions it is unclear how the proposed emission limits could be practically complied with and enforced.

d. Compliance Tests

Q. DID GUARDIANS SUBMIT COMMENTS ON THE ISSUE OF COMPLIANCE TESTS, AS IT RELATES TO THE PROPOSED PERMIT FOR THE LONGHORN FACILITY?

A. Yes.

Q. ARE THOSE COMMENTS SUBSTANTIALLY THE SAME AS THOSE COMMENTS GUARDIANS SUBMITTED ON THE ISSUE OF COMPLIANCE TESTS FOR THE BULLDOG FACILITY, IN AQB 21-31?

A. Yes.

Q. TO AVOID BEING UNDULY REPETITIOUS, DO YOU ADOPT YOUR TESTIMONY IN AQB 21-31, ON PAGES 16 TO 17, ON THE ISSUE OF COMPLIANCE TESTS AS YOUR TESTIMONY IN AQB 21-33 ON THE SAME

ISSUE?

A. Yes.

e. Environmental Justice

Q. DID GUARDIANS SUBMIT COMMENTS ON THE ISSUE OF ENVIRONMENTAL JUSTICE, AS IT RELATES TO THE PROPOSED PERMIT FOR THE LONGHORN FACILITY?

A. Yes.

Q. ARE THOSE COMMENTS SUBSTANTIALLY THE SAME AS THOSE COMMENTS GUARDIANS SUBMITTED ON THE ISSUE OF ENVIRONMENTAL JUSTICE FOR THE BULLDOG FACILITY, IN AQB 21-31?

A. Yes.

Q. TO AVOID BEING UNDULY REPETITIOUS, DO YOU ADOPT YOUR TESTIMONY IN AQB 21-31, ON PAGES 17 TO 18, ON THE ISSUE OF ENVIRONMENTAL JUSTICE AS YOUR TESTIMONY IN AQB 21-33 ON THE SAME ISSUE?

A. Yes.

f. Pneumatic Controllers

Q. DID GUARDIANS SUBMIT COMMENTS ON THE ISSUE OF PNEUMATIC CONTROLLERS, AS IT RELATES TO THE PROPOSED PERMIT FOR THE LONGHORN FACILITY?

A. Yes.

Q. ARE THOSE COMMENTS SUBSTANTIALLY THE SAME AS THOSE COMMENTS GUARDIANS SUBMITTED ON THE ISSUE OF PNEUMATIC

CONTROLLERS FOR THE BULLDOG FACILITY, IN AQB 21-31?

A. Yes.

Q. TO AVOID BEING UNDULY REPETITIOUS, DO YOU ADOPT YOUR TESTIMONY IN AQB 21-31, ON PAGES 18 TO 20, ON THE ISSUE OF PNEUMATIC CONTROLLERS AS YOUR TESTIMONY IN AQB 21-33 ON THE SAME ISSUE?

A. Yes.

g. NO2 Ambient Air Quality Standards

Q. DID GUARDIANS SUBMIT COMMENTS ON THE ISSUE OF NO2 AMBIENT AIR QUALITY STANDARDS, AS IT RELATES TO THE PROPOSED PERMIT FOR THE LONGHORN FACILITY?

A. Yes.

Q. ARE THOSE COMMENTS SUBSTANTIALLY THE SAME AS THOSE COMMENTS GUARDIANS SUBMITTED ON THE ISSUE OF NO2 AMBIENT AIR QUALITY STANDARDS FOR THE BULLDOG FACILITY, IN AQB 21-31?

A. Yes, but the applicant indicated the Longhorn facility would push the ambient concentration of NO2 to within 97% of the standard as reported by the applicant.

Q. TO AVOID BEING UNDULY REPETITIOUS, DO YOU ADOPT YOUR TESTIMONY IN AQB 21-31, ON PAGES 20 TO 21, ON THE ISSUE OF NO2 AMBIENT AIR QUALITY STANDARDS AS YOUR TESTIMONY IN AQB 21-33 ON THE SAME ISSUE?

A. Yes.

h. Miscellaneous

Q. DID GUARDIANS SUBMIT COMMENTS ON SEVERAL MISCELLANEOUS ISSUES, AS THEY RELATE TO THE PROPOSED PERMIT FOR THE LONGHORN FACILITY?

A. Yes.

Q. ARE THOSE COMMENTS SUBSTANTIALLY THE SAME AS THOSE COMMENTS GUARDIANS SUBMITTED ON THE MISCELLANEOUS ISSUES FOR THE BULLDOG FACILITY, IN AQB 21-31?

A. Yes, but Guardians submitted one additional comment regarding miscellaneous issues associated with the proposed permit for the Longhorn facility.

Q. TO AVOID BEING UNDULY REPETITIOUS, DO YOU ADOPT YOUR TESTIMONY IN AQB 21-31, ON PAGES 21 TO 22, REGARDING MISCELLANEOUS ISSUES AS YOUR TESTIMONY IN AQB 21-33 ON THE SAME ISSUE?

A. Yes.

Q. CAN YOU PLEASE EXPLAIN THE ONE ADDITIONAL MISCELLANEOUS ISSUE GUARDIANS RAISED IN RELATION TO THE LONGHORN FACILITY?

A. The Environment Department's Statement of Basis associated with the proposed permit for the Longhorn facility dated May 24, 2021 indicated that the modeling report used to support the permit application was conducted on December 4, 2019. Guardians requested that the Department explain whether or not the applicant should have produced a more recent modeling report for the Longhorn facility to account for changes in ambient air quality and surrounding emission sources.

Q. HAS THE ENVIRONMENT DEPARTMENT RESPONDED SUBSTANTIVELY TO THAT REQUEST?

A. No.

i. Conclusion

Q. DOES THIS CONCLUDE YOUR TESTIMONY FOR THE PROPOSED PERMIT TO MODIFY THE LONGHORN COMPRESSOR STATION, IN AQB 21-33?

A. Yes.

VI. COWBOY CDP, AQB 21-34

Q. WHEN DID GUARDIANS SUBMIT COMMENTS ON THIS PROPOSED PERMIT?

A. The Environment Department published its Legal Notice and Preliminary Determination for this facility on June 2, 2020, providing the public 30 days with which to submit written comments. Guardians submitted written comments, dated June 20, 2020, based on this legal notice. On February 23, 2021, Guardians received a letter from the Environment Department thanking us for our interest in this permit and notifying us that the Department's analysis of the permit application was made available for public comment and review on its webpage. Following receipt of this letter, Guardians submitted a second set of written comments, dated March 25, 2021, on the Department's analysis of the permit application and proposed permit.

Q. CAN YOU PLEASE SUMMARIZE THE ISSUES GUARDIANS RAISED IN ITS COMMENTS ON THIS PROPOSED PERMIT?

A. Guardians raised several issues in its comments on this facility, including: legal notice, ozone, the enforceability of SSM/M emission limits, absent operating permit, environmental justice, pneumatic controllers, NO₂ and other ambient air quality analysis, emissions from adjacent facilities, and legal notice to Carlsbad Caverns National Park.

Q. DID GUARDIANS EVER RECEIVE A SUBSTANTIVE RESPONSE TO ITS COMMENTS FROM THE ENVIRONMENT DEPARTMENT?

A. No, but the Department did send an email, dated September 16, 2021, notifying us that the Department had issued a revised draft permit and statement of basis for the Cowboy facility. The Department's revisions to these documents did not resolve the concerns we raised in our comments.

Q. WHAT IS GUARDIANS' POSITION ON THIS PROPOSED PERMIT?

A. Guardians opposes the proposed permit modification for the Cowboy facility, and the Department must deny the permit application for the reasons I discuss later in my testimony, as well as provide information and answer questions Guardians raised in its comment submissions.

a. Legal Notice

Q. DID GUARDIANS SUBMIT COMMENTS ON THE ISSUE OF LEGAL NOTICE, AS IT RELATES TO THE PROPOSED PERMIT FOR THE COWBOY FACILITY?

A. Yes.

Q. ARE THOSE COMMENTS SUBSTANTIALLY THE SAME AS THOSE COMMENTS GUARDIANS SUBMITTED ON THE ISSUE OF LEGAL NOTICE FOR THE BULLDOG FACILITY, IN AQB 21-31?

A. Yes.

Q. TO AVOID BEING UNDULY REPETITIOUS, DO YOU ADOPT YOUR TESTIMONY IN AQB 21-31, ON PAGES 8 TO 10, ON THE ISSUE OF LEGAL NOTICE AS YOUR TESTIMONY IN AQB 21-34 ON THE SAME ISSUE?

A. Yes.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

c. SSM/M Emission Limits

Q. DID GUARDIANS SUBMIT COMMENTS ON THE ISSUE OF PROPOSED SSM/M EMISSION LIMITS, AS IT RELATES TO THE PROPOSED PERMIT FOR THE COWBOY FACILITY?

A. Yes.

Q. ARE THOSE COMMENTS SUBSTANTIALLY THE SAME AS THOSE COMMENTS GUARDIANS SUBMITTED ON THE ISSUE OF PROPOSED SSM/M EMISSION LIMITS FOR THE BULLDOG FACILITY, IN AQB 21-31?

A. Yes, but for the Cowboy facility the unenforceable emission limits Guardians commented on apply to the units identified as “SSM,” “Malfunction,” “FL1-FL3 OVHD-SSM,” and “FL1-FL3 CRYO-SSM” set forth at section A107 of the proposed permit. “FL1-FL3 OVHD-SSM” refers to stabilizer overhead startup, shutdown, and maintenance emissions. “FL1-FL3 CRYO-SSM” refers to cryo blowdown startup, shutdown, and maintenance emissions. “Malfunction” refers to venting of gas during malfunction.

Q. TO AVOID BEING UNDULY REPETITIOUS, DO YOU ADOPT YOUR TESTIMONY IN AQB 21-31, ON PAGES 13 TO 14, ON THE ISSUE OF PROPOSED SSM/M EMISSION LIMITS AS YOUR TESTIMONY IN AQB 21-34

ON THE SAME ISSUE?

A. Yes, in general. For the “SSM” and “Malfunction” units, the proposed permit does not require the volume of gas vented to be measured by a meter or other means of volumetric measurement. Without such a measurement, it is unclear how gas vented during these events will be accurately measured to ensure compliance with the respective annual 10 ton per year VOC emission limits.

For the “FL1-FL3 OVHD-SSM,” and “FL1-FL3 CRYO-SSM” units, the proposed permit authorizes pounds per hour and tons per year emissions of NO_x, CO, VOC, SO₂, PM₁₀, and PM_{2.5} without any restriction on the frequency or duration of flaring during SSM. With no restriction on the frequency or duration of flaring during SSM, the annual emission rates are unenforceable as a practical matter. For example, although the permit limits FL1-FL3 OVHD-SSM flaring VOC emissions to 21.9 tons per year, with no restrictions on the frequency or duration of flaring, as a practical matter, the permit would allow the facility to emit more than 4,700 tons of VOCs annually based on the permit’s hourly limit of 1,093.5 pounds per hour and presumption of operating 8,760 hours annually. Absent restrictions on the frequency or duration of these emissions it is unclear how the proposed annual emission limits could be practically complied with and enforced.

d. Operating Permit

Q. DID GUARDIANS SUBMIT COMMENTS ON THE ISSUE OF OPERATING PERMITS, AS IT RELATES TO THE PROPOSED PERMIT FOR THE COWBOY FACILITY?

A. No.

Q. DOES GUARDIANS WISH TO RAISE CONCERNS IN THIS HEARING

RELATED TO THE ISSUE OF OPERATING PERMITS, AS THEY RELATE TO THE PROPOSED PERMIT FOR THE COWBOY FACILITY?

A. Yes.

Q. ARE THE COMMENTS YOU WOULD RAISE IN THIS HEARING RELATED TO OPERATING PERMITS SUBSTANTIALLY THE SAME AS THOSE COMMENTS GUARDIANS SUBMITTED ON THE ISSUE OF OPERATING PERMITS FOR THE BULLDOG FACILITY, IN AQB 21-31?

A. Yes, but for the Cowboy facility the Environment Department authorized the facility to emit 100 or more tons per year of an air pollutant subject to regulation on November 16, 2018. This means XTO was required to submit an application for a Part 70 permit by November 16, 2019. To my knowledge, no application has been submitted.

Q. TO AVOID BEING UNDULY REPETITIOUS, DO YOU ADOPT YOUR TESTIMONY IN AQB 21-31, ON PAGES 15 TO 16, ON THE ISSUE OF OPERATING PERMITS AS YOUR TESTIMONY IN AQB 21-34 ON THE SAME ISSUE?

A. Yes.

e. Environmental Justice

Q. DID GUARDIANS SUBMIT COMMENTS ON THE ISSUE OF ENVIRONMENTAL JUSTICE, AS IT RELATES TO THE PROPOSED PERMIT FOR THE COWBOY FACILITY?

A. Yes.

Q. ARE THOSE COMMENTS SUBSTANTIALLY THE SAME AS THOSE COMMENTS GUARDIANS SUBMITTED ON THE ISSUE OF

ENVIRONMENTAL JUSTICE FOR THE BULLDOG FACILITY, IN AQB 21-31?

A. Yes.

Q. TO AVOID BEING UNDULY REPETITIOUS, DO YOU ADOPT YOUR TESTIMONY IN AQB 21-31, ON PAGES 17 TO 18, ON THE ISSUE OF ENVIRONMENTAL JUSTICE AS YOUR TESTIMONY IN AQB 21-34 ON THE SAME ISSUE?

A. Yes.

f. Pneumatic Controllers

Q. DID GUARDIANS SUBMIT COMMENTS ON THE ISSUE OF PNEUMATIC CONTROLLERS, AS IT RELATES TO THE PROPOSED PERMIT FOR THE COWBOY FACILITY?

A. Yes.

Q. ARE THOSE COMMENTS SUBSTANTIALLY THE SAME AS THOSE COMMENTS GUARDIANS SUBMITTED ON THE ISSUE OF PNEUMATIC CONTROLLERS FOR THE BULLDOG FACILITY, IN AQB 21-31?

A. Yes.

Q. TO AVOID BEING UNDULY REPETITIOUS, DO YOU ADOPT YOUR TESTIMONY IN AQB 21-31, ON PAGES 18 TO 20, ON THE ISSUE OF PNEUMATIC CONTROLLERS AS YOUR TESTIMONY IN AQB 21-34 ON THE SAME ISSUE?

A. Yes.

g. NO₂ and Other Ambient Air Quality Standards

Q. DID GUARDIANS SUBMIT COMMENTS ON THE ISSUE OF NO₂ AMBIENT

**AIR QUALITY STANDARDS, AS IT RELATES TO THE PROPOSED PERMIT
FOR THE COWBOY FACILITY?**

A. Yes.

**Q. ARE THOSE COMMENTS SUBSTANTIALLY THE SAME AS THOSE
COMMENTS GUARDIANS SUBMITTED ON THE ISSUE OF NO₂ AMBIENT
AIR QUALITY STANDARDS FOR THE BULLDOG FACILITY, IN AQB 21-31?**

A. Yes, but for the Cowboy facility Guardians also raised one additional comment on the issue of other Ambient Air Quality Standards.

**Q. TO AVOID BEING UNDULY REPETITIOUS, DO YOU ADOPT YOUR
TESTIMONY IN AQB 21-31, ON PAGES 20 TO 21, ON THE ISSUE OF NO₂
AMBIENT AIR QUALITY STANDARDS AS YOUR TESTIMONY IN AQB 21-34
ON THE SAME ISSUE?**

A. Yes, but the applicant indicated the Cowboy facility would push the ambient concentration of NO₂ to within 68.5% of the standard.

**Q. CAN YOU PLEASE EXPLAIN THE ONE ADDITIONAL COMMENT
GUARDIANS RAISED ON THE ISSUE OF OTHER AMBIENT AIR QUALITY
STANDARDS RELATED TO THE COWBOY FACILITY?**

A. Guardians requested that the Department explain whether the applicant was correct in using air quality monitoring stations in Albuquerque, New Mexico and Amarillo, Texas to determine background concentrations of CO and SO₂, even though this data may be obtained from air quality monitors that exist closer to the Cowboy facility, in El Paso and Big Springs, Texas.

Q. HAS THE ENVIRONMENT DEPARTMENT RESPONDED SUBSTANTIVELY

TO THAT REQUEST?

A. No.

h. Emissions from Adjacent Facilities

**Q. CAN YOU PLEASE EXPLAIN GUARDIANS' COMMENT AND CONCERN
RELATED TO THE ISSUE OF EMISSIONS FROM ADJACENT FACILITIES?**

A. Guardians submitted comments raising the concern that it is unclear from the Environment Department's Statement of Basis associated with the proposed permit to modify the Cowboy facility whether or not the proposed permit properly accounts for all pollutant emitting activities associated with the Cowboy facility, including those pollutant emitting activities associated with adjacent and interrelated sources of air pollution. The Department's Statement of Basis did identify the Cowboy Pump Station, adjacent to the Cowboy CDP, but did not include the emissions from the former in the calculation of the estimated emissions for the latter. Guardians commented that because both facilities operate under the same major group Standard Industrial Classification and that both facilities are owned by the same parent company, ExxonMobil, this suggests the emissions from both facilities should be analyzed together in evaluating the proposed permit to modify the Cowboy CDP. Guardians requested that the Department explain why the emissions from the Cowboy Pump Station should or should not be included in the analysis of the proposed permit to modify the Cowboy CDP.

**Q. HAS THE ENVIRONMENT DEPARTMENT RESPONDED SUBSTANTIVELY
TO THAT REQUEST?**

A. No.

i. Notice to Carlsbad Caverns National Park

Q. CAN YOU PLEASE EXPLAIN GUARDIANS' COMMENT AND CONCERN

**RELATED TO THE ISSUE OF NOTICE TO CARLSBAD CAVERNS
NATIONAL PARK?**

A. Guardians submitted comments that referred to the Environment Department's Database Summary, which indicated that no public notice of the proposed permit to modify the Cowboy facility had been submitted to Carlsbad Caverns National Park. Pursuant to 20.2.72.206.A.(7) NMAC, if an air polluting facility will be located within 50 kilometers of a Class I Area, the Department must mail a copy of the public notice to the appropriate agency. Carlsbad Caverns National Park is a Class I Area, and the Cowboy facility would be located within 50 kilometers of the Park. However, the Department's Statement of Basis indicated no public notice had been submitted to the National Park Service. Accordingly, Guardians requested that the Department mail the public notice to the National Park Service office for Carlsbad Caverns National Park and grant that agency additional time to comment on the proposed permit.

**Q. HAS THE ENVIRONMENT DEPARTMENT RESPONDED SUBSTANTIVELY
TO THAT REQUEST?**

A. No.

j. Conclusion

**Q. DOES THIS CONCLUDE YOUR TESTIMONY FOR THE PROPOSED PERMIT
TO MODIFY THE COWBOY CDP, IN AQB 21-34?**

A. Yes.

VII. WILDCAT COMPRESSOR STATION, AQB 21-35

Q. WHEN DID GUARDIANS SUBMIT COMMENTS ON THIS PROPOSED PERMIT?

A. The Environment Department published its Legal Notice and Preliminary Determination for this facility first on July 17, 2020, providing the public 30 days with which to submit written comments. Guardians submitted written comments, dated July 27, 2020, based on this legal notice. On March 2, 2021, Guardians received an email from the Environment Department thanking us for our interest in this permit and notifying us that the Department's analysis of the permit application was made available for public comment and review on its webpage. Following receipt of this email, Guardians submitted a second set of written comments, dated April 1, 2021, on the Department's analysis of the permit application and proposed permit.

Q. CAN YOU PLEASE SUMMARIZE THE ISSUES GUARDIANS RAISED IN ITS COMMENTS ON THIS PROPOSED PERMIT?

A. Guardians raised several issues in its comments on this facility, including: legal notice, ozone, the enforceability of SSM/M emission limits, absent operating permit, environmental justice, pneumatic controllers, NO₂ ambient air quality analysis, and procedural concerns.

Q. DID GUARDIANS EVER RECEIVE A SUBSTANTIVE RESPONSE TO ITS COMMENTS FROM THE ENVIRONMENT DEPARTMENT?

A. No.

Q. WHAT IS GUARDIANS' POSITION ON THIS PROPOSED PERMIT?

A. Guardians opposes the proposed permit modification for the Wildcat facility, and the Department must deny the permit application for the reasons I discuss later in my testimony, as well as provide information and answer questions Guardians raised in its comment submissions.

a. Legal Notice

Q. DID GUARDIANS SUBMIT COMMENTS ON THE ISSUE OF LEGAL NOTICE, AS IT RELATES TO THE PROPOSED PERMIT FOR THE WILDCAT FACILITY?

A. Yes.

Q. ARE THOSE COMMENTS SUBSTANTIALLY THE SAME AS THOSE COMMENTS GUARDIANS SUBMITTED ON THE ISSUE OF LEGAL NOTICE FOR THE BULLDOG FACILITY, IN AQB 21-31?

A. Yes.

Q. TO AVOID BEING UNDULY REPETITIOUS, DO YOU ADOPT YOUR TESTIMONY IN AQB 21-31, ON PAGES 8 TO 10, ON THE ISSUE OF LEGAL NOTICE AS YOUR TESTIMONY IN AQB 21-35 ON THE SAME ISSUE?

A. Yes.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

c. SSM/M Emission Limits

Q. DID GUARDIANS SUBMIT COMMENTS ON THE ISSUE OF PROPOSED SSM/M EMISSION LIMITS, AS IT RELATES TO THE PROPOSED PERMIT FOR THE WILDCAT FACILITY?

A. Yes.

Q. ARE THOSE COMMENTS SUBSTANTIALLY THE SAME AS THOSE COMMENTS GUARDIANS SUBMITTED ON THE ISSUE OF PROPOSED SSM/M EMISSION LIMITS FOR THE BULLDOG FACILITY, IN AQB 21-31?

A. Yes, but for the Wildcat facility the unenforceable emission limits Guardians commented on apply to the units identified as “SSM Flaring,” “SSM Venting,” and “Malfunction Venting” set forth at section A107 of the proposed permit. “SSM Flaring” refers to routine and predictable startup, shutdown, and maintenance emissions. “SSM Venting” refers to compressor blowdowns, pigging equipment blowdowns, and miscellaneous startup, shutdown, and maintenance emissions. “Malfunction venting” refers to malfunction venting emissions.

Q. TO AVOID BEING UNDULY REPETITIOUS, DO YOU ADOPT YOUR TESTIMONY IN AQB 21-31, ON PAGES 13 TO 14, ON THE ISSUE OF PROPOSED SSM/M EMISSION LIMITS AS YOUR TESTIMONY IN AQB 21-35 ON THE SAME ISSUE?

A. Yes, in general. For the “SSM Venting” and “Malfunction venting” units, the proposed permit does not require the volume of gas vented to be measured by a meter or other means of volumetric measurement. Without such a measurement, it is unclear how gas vented during these

events will be accurately measured to ensure compliance with the respective annual 10 ton per year VOC emission limits.

For the “SSM Flaring” unit, the proposed permit authorizes pounds per hour and tons per year emissions of NO_x, CO, VOC, SO₂, PM₁₀, and PM_{2.5} without any restriction on the frequency or duration of flaring during SSM. With no restriction on the frequency or duration of flaring during SSM, the annual emission rates are unenforceable as a practical matter. For example, although the permit limits SSM flaring VOC emissions to 11.0 tons per year, with no restrictions on the frequency or duration of flaring, as a practical matter, the permit would allow the facility to emit more than 3,100 tons of VOCs annually based on the permit’s hourly limit of 727 pounds per hour and presumption of operating 8,760 hours annually. Absent restrictions on the frequency or duration of these emissions it is unclear how the proposed annual emission limits could be practically complied with and enforced.

d. Operating Permit

Q. DID GUARDIANS SUBMIT COMMENTS ON THE ISSUE OF OPERATING PERMITS, AS IT RELATES TO THE PROPOSED PERMIT FOR THE WILDCAT FACILITY?

A. No.

Q. DOES GUARDIANS WISH TO RAISE CONCERNS IN THIS HEARING RELATED TO THE ISSUE OF OPERATING PERMITS, AS THEY RELATE TO THE PROPOSED PERMIT FOR THE WILDCAT FACILITY?

A. Yes.

Q. ARE THE COMMENTS YOU WOULD RAISE IN THIS HEARING RELATED TO OPERATING PERMITS SUBSTANTIALLY THE SAME AS THOSE

**COMMENTS GUARDIANS SUBMITTED ON THE ISSUE OF OPERATING
PERMITS FOR THE BULLDOG FACILITY, IN AQB 21-31?**

A. Yes, but for the Wildcat facility the Environment Department authorized the facility to emit 100 or more tons per year of an air pollutant subject to regulation on January 3, 2018. Although a Part 70 permit application was submitted on December 14, 2020, the facility has yet to obtain and operate in compliance with a Part 70 permit.

**Q. TO AVOID BEING UNDULY REPETITIOUS, DO YOU ADOPT YOUR
TESTIMONY IN AQB 21-31, ON PAGES 15 TO 16, ON THE ISSUE OF
OPERATING PERMITS AS YOUR TESTIMONY IN AQB 21-35 ON THE SAME
ISSUE?**

A. Yes.

e. Environmental Justice

**Q. DID GUARDIANS SUBMIT COMMENTS ON THE ISSUE OF
ENVIRONMENTAL JUSTICE, AS IT RELATES TO THE PROPOSED PERMIT
FOR THE WILDCAT FACILITY?**

A. Yes.

**Q. ARE THOSE COMMENTS SUBSTANTIALLY THE SAME AS THOSE
COMMENTS GUARDIANS SUBMITTED ON THE ISSUE OF
ENVIRONMENTAL JUSTICE FOR THE BULLDOG FACILITY, IN AQB 21-31?**

A. Yes.

**Q. TO AVOID BEING UNDULY REPETITIOUS, DO YOU ADOPT YOUR
TESTIMONY IN AQB 21-31, ON PAGES 17 TO 18, ON THE ISSUE OF
ENVIRONMENTAL JUSTICE AS YOUR TESTIMONY IN AQB 21-35 ON THE**

SAME ISSUE?

A. Yes.

f. Pneumatic Controllers

Q. DID GUARDIANS SUBMIT COMMENTS ON THE ISSUE OF PNEUMATIC CONTROLLERS, AS IT RELATES TO THE PROPOSED PERMIT FOR THE WILDCAT FACILITY?

A. Yes.

Q. ARE THOSE COMMENTS SUBSTANTIALLY THE SAME AS THOSE COMMENTS GUARDIANS SUBMITTED ON THE ISSUE OF PNEUMATIC CONTROLLERS FOR THE BULLDOG FACILITY, IN AQB 21-31?

A. Yes.

Q. TO AVOID BEING UNDULY REPETITIOUS, DO YOU ADOPT YOUR TESTIMONY IN AQB 21-31, ON PAGES 18 TO 20, ON THE ISSUE OF PNEUMATIC CONTROLLERS AS YOUR TESTIMONY IN AQB 21-35 ON THE SAME ISSUE?

A. Yes.

g. NO2 Ambient Air Quality Standards

Q. DID GUARDIANS SUBMIT COMMENTS ON THE ISSUE OF NO2 AMBIENT AIR QUALITY STANDARDS, AS IT RELATES TO THE PROPOSED PERMIT FOR THE WILDCAT FACILITY?

A. Yes.

Q. ARE THOSE COMMENTS SUBSTANTIALLY THE SAME AS THOSE COMMENTS GUARDIANS SUBMITTED ON THE ISSUE OF NO2 AMBIENT

AIR QUALITY STANDARDS FOR THE BULLDOG FACILITY, IN AQB 21-31?

A. Yes.

Q. TO AVOID BEING UNDULY REPETITIOUS, DO YOU ADOPT YOUR TESTIMONY IN AQB 21-31, ON PAGES 20 TO 21, ON THE ISSUE OF NO2 AMBIENT AIR QUALITY STANDARDS AS YOUR TESTIMONY IN AQB 21-35 ON THE SAME ISSUE?

A. Yes, but the applicant indicated the Wildcat facility would push ambient concentration of NO2 to within 74.6% of the standard as reported by the applicant.

h. Procedural Concerns

Q. DO YOU HAVE ADDITIONAL CONCERNS REGARDING THE WILDCAT FACILITY'S PERMITTING PROCESS?

A. Yes. According to the Department, a final permit for the Wildcat facility was signed and approved by Air Quality Bureau Chief Elizabeth Bisbey-Kuehn on February 19, 2021. In other words, the final permit has already been approved, notwithstanding this public hearing.

Q. HAS THE DEPARTMENT TAKEN ACTION TO RESCIND THIS PERMIT?

A. No, not to my knowledge.

Q. HAS THE DEPARTMENT TAKEN ANY ACTION TO ADDRESS THE FACT THAT A FINAL PERMIT WAS APPROVED PRIOR TO THIS PUBLIC HEARING AND PRIOR TO THE PERMITTING RECORD BEING COMPLETED?

A. No, not to my knowledge.

i. Conclusion

Q. DOES THIS CONCLUDE YOUR TESTIMONY FOR THE PROPOSED PERMIT

TO MODIFY THE WILDCAT COMPRESSOR STATION, IN AQB 21-35?

A. Yes.

VIII. MAVERICK COMPRESSOR STATION, AQB 21-39

Q. WHEN DID GUARDIANS SUBMIT COMMENTS ON THIS PROPOSED PERMIT?

A. The Environment Department published its Legal Notice and Preliminary Determination for this facility on April 9, 2021, providing the public 30 days with which to submit written comments. The Department published a revised Legal Notice and Preliminary Determination on April 20, 2021. Guardians submitted written comments, dated May 20, 2021, based on this legal notice. On June 9, 2021, Guardians received a letter from the Environment Department thanking us for our interest in this permit and notifying us that the Department's analysis of the permit application was made available for public comment and review on its webpage. Following receipt of this letter, Guardians submitted a second set of written comments, dated July 9, 2021, on the Department's analysis of the permit application and proposed permit.

Q. CAN YOU PLEASE SUMMARIZE THE ISSUES GUARDIANS RAISED IN ITS COMMENTS ON THIS PROPOSED PERMIT?

A. Guardians raised several issues in its comments on this facility, including: legal notice, ozone, the enforceability of SSM/M emission limits, absent operating permit, compliance, environmental justice, pneumatic controllers, NO2 and other ambient air quality analysis, excess emissions, and miscellaneous issues.

Q. DID GUARDIANS EVER RECEIVE A SUBSTANTIVE RESPONSE TO ITS COMMENTS FROM THE ENVIRONMENT DEPARTMENT?

A. No.

Q. WHAT IS GUARDIANS' POSITION ON THIS PROPOSED PERMIT?

A. Guardians opposes the proposed permit modification for the Maverick facility, and the Department must deny the permit application for the reasons I discuss later in my testimony, as well as provide information and answer questions Guardians raised in its comment submissions.

a. Legal Notice

Q. DID GUARDIANS SUBMIT COMMENTS ON THE ISSUE OF LEGAL NOTICE, AS IT RELATES TO THE PROPOSED PERMIT FOR THE MAVERICK FACILITY?

A. Yes.

Q. CAN YOU PLEASE EXPLAIN GUARDIANS' COMMENT AND CONCERN RELATED TO THE ISSUE OF LEGAL NOTICE?

A. Guardians commented that the permit applicant's legal notice to the public, stating that the Department was considering this facility and soliciting public comment, was inadequate amidst the circumstances of a global pandemic. The applicant's legal notice stated that the singular method for submitting public comment on the proposed permit was through mailing a hardcopy of any comments to the Environment Department's physical address. Guardians' comments informed the Department that the permit applicant's instructions limiting public comment to mail-in comments only, may have prevented or dissuaded some members of the public, particularly the elderly, immune-compromised individuals, and those with co-morbidities, from participating in the public review process because of the public health risk of contracting COVID-19 through purchasing stamps, entering a post office, printing comments at an office supply store, etc.

Although Guardians was able to determine that comment submission through electronic mail was acceptable despite the instructions in the applicant's legal notice, this was due to prior

experience and interactions with the Department. Other members of the public may not have had the prior experience to understand this option existed. According to the Construction Permit regulations adopted pursuant to New Mexico's Air Quality Control Act, any person seeking a construction permit under 20.2.72. NMAC is also required to include a public notice in their permit application that includes "[t]he current address of the department to which comments and inquiries may be directed" and a public service announcement that includes "[t]he address or telephone number at which comments and inquiries may be directed to the department.

20.2.72.203.C.(6) and D.(5). While the applicant's public notice did include instructions and information necessary to submit comments on the proposed permit modification in writing, to the Department's physical address, this notice was incomplete by failing to alert the public that the Department would accept comments by email at a particular email address due to the health risks posed by the global pandemic. The Environment Department, itself, determined to include this information in its legal notices, following comments and concerns Guardians raised with respect to legal notices of similar proposals. Permit applicants should be held to the same standard set by the Environment Department.

Q. HAS THE APPLICANT REVISED AND REPUBLISHED THE PUBLIC NOTICE FOR THIS PROPOSED PERMIT MODIFICATION?

A. No, not to my knowledge.

Q. HAS THE ENVIRONMENT DEPARTMENT SUBSTANTIVELY RESPONDED TO THIS COMMENT.

A. No.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

c. SSM/M Emission Limits

Q. DID GUARDIANS SUBMIT COMMENTS ON THE ISSUE OF PROPOSED SSM/M EMISSION LIMITS, AS IT RELATES TO THE PROPOSED PERMIT FOR THE MAVERICK FACILITY?

A. Yes.

Q. ARE THOSE COMMENTS SUBSTANTIALLY THE SAME AS THOSE COMMENTS GUARDIANS SUBMITTED ON THE ISSUE OF PROPOSED SSM/M EMISSION LIMITS FOR THE BULLDOG FACILITY, IN AQB 21-31?

A. Yes, but for the Maverick facility the unenforceable emission limits Guardians commented on apply to the units identified as “SSM Flaring: FL1, FL2, FL3,” “DEHY SSM,” “SSM from ENG1-9, ENG11-12,” and “M” set forth at section A107 of the proposed permit. Guardians also included one additional comment on the issue of SSM/M emission limits associated with the Maverick facility. “SSM Flaring: FL1, FL2, FL3” refers to flaring from low

pressure separator/vapor recovery unit downtime, high pressure flare blowdowns, flash tank vapors, and high pressure flare gas flaring. “DEHY SSM” startup, shutdown, and maintenance emissions related to dehydrator reboiler combustion. “SSM from ENG1-9, ENG11-12” refers to compressor and associated piping blowdowns during routine and predictable startup, shutdown, and/or maintenance. “M” refers to venting of gas due to malfunction.

Q. TO AVOID BEING UNDULY REPETITIOUS, DO YOU ADOPT YOUR TESTIMONY IN AQB 21-31, ON PAGES 13 TO 14, ON THE ISSUE OF PROPOSED SSM/M EMISSION LIMITS AS YOUR TESTIMONY IN AQB 21-39 ON THE SAME ISSUE?

A. Yes, in general. For the “SSM from ENG1-9, ENG11-12” and “M” units, the proposed permit does not require the volume of gas vented to be measured by a meter or other means of volumetric measurement. Without such a measurement, it is unclear how gas vented during these events will be accurately measured to ensure compliance with the respective annual 10 ton per year VOC emission limits.

For the “SSM Flaring: FL1, FL2, FL3” and “DEHY SSM” units, the proposed permit authorizes pounds per hour and tons per year emissions of NO_x, CO, VOC, SO₂, PM₁₀, and PM_{2.5} without any restriction on the frequency or duration of flaring during SSM. With no restriction on the frequency or duration of flaring during SSM, the annual emission rates are unenforceable as a practical matter. For example, although the permit limits dehydrator SSM flaring VOC emissions to 4.0 tons per year, with no restrictions on the frequency or duration of flaring, as a practical matter, the permit would allow the facility to emit more than 257 tons of VOCs annually based on the permit’s hourly limit of 58.7 pounds per hour and presumption of operating 8,760 hours annually. Absent restrictions on the frequency or duration of these

emissions it is unclear how the proposed annual emission limits could be practically complied with and enforced.

Q. CAN YOU PLEASE EXPLAIN GUARDIANS' ADDITIONAL COMMENT ON SSM/M EMISSION LIMITS.

A. Guardians noted that the permit application for the proposed modification to the Maverick facility indicated that emissions of NOx and CO from the SSM Emergency Flares were based on factors from the Texas Commission on Environmental Quality (TCEQ), specifically TCEQ's publication RG-360A/09. Guardians requested that the Environment Department explain whether or not this TCEQ document was applicable and appropriate for purposes of estimating NOx and CO emissions from the SSM Emergency Flares.

Q. HAS THE ENVIRONMENT DEPARTMENT SUBSTANTIVELY RESPONDED TO THIS COMMENT?

A. No.

d. Operating Permit

Q. DID GUARDIANS SUBMIT COMMENTS ON THE ISSUE OF OPERATING PERMITS, AS IT RELATES TO THE PROPOSED PERMIT FOR THE MAVERICK FACILITY?

A. Yes.

Q. ARE THOSE COMMENTS SUBSTANTIALLY THE SAME AS THOSE COMMENTS GUARDIANS SUBMITTED ON THE ISSUE OF OPERATING PERMITS FOR THE BULLDOG FACILITY, IN AQB 21-31?

A. Yes, but for the Maverick facility the Environment Department authorized the facility to emit 100 or more tons per year of an air pollutant subject to regulation on March 7, 2018.

Although a Part 70 permit application was submitted on June 24, 2021, the facility has yet to obtain and operate in compliance with a Part 70 permit.

Q. TO AVOID BEING UNDULY REPETITIOUS, DO YOU ADOPT YOUR TESTIMONY IN AQB 21-31, ON PAGES 15 TO 16, ON THE ISSUE OF OPERATING PERMITS AS YOUR TESTIMONY IN AQB 21-39 ON THE SAME ISSUE?

A. Yes.

e. Compliance

Q. CAN YOU PLEASE EXPLAIN GUARDIANS' COMMENTS ON THE ISSUE OF COMPLIANCE, AS IT RELATES TO THE PROPOSED PERMIT FOR THE MAVERICK FACILITY?

A. Guardians submitted comments concerning a statement in the Environment Department's June 9, 2021 Statement of Basis, indicating the Department had not been unable to verify the Maverick facility's compliance and enforcement status, despite Department staff having contacted someone by the name of Allan Morris on April 12, 2021. Guardians requested the Department explain whether or not it could verify the compliance and enforcement status of this facility.

Q. HAS THE ENVIRONMENT DEPARTMENT SUBSTANTIVELY RESPONDED TO THIS COMMENT?

A. No.

Q. ARE YOU AWARE OF WHETHER OR NOT THE DEPARTMENT VERIFIED THE COMPLIANCE AND ENFORCEMENT STATUS OF THIS FACILITY?

A. No.

f. Environmental Justice

Q. DID GUARDIANS SUBMIT COMMENTS ON THE ISSUE OF ENVIRONMENTAL JUSTICE, AS IT RELATES TO THE PROPOSED PERMIT FOR THE MAVERICK FACILITY?

A. Yes.

Q. ARE THOSE COMMENTS SUBSTANTIALLY THE SAME AS THOSE COMMENTS GUARDIANS SUBMITTED ON THE ISSUE OF ENVIRONMENTAL JUSTICE FOR THE BULLDOG FACILITY, IN AQB 21-31?

A. Yes.

Q. TO AVOID BEING UNDULY REPETITIOUS, DO YOU ADOPT YOUR TESTIMONY IN AQB 21-31, ON PAGES 17 TO 18, ON THE ISSUE OF ENVIRONMENTAL JUSTICE AS YOUR TESTIMONY IN AQB 21-39 ON THE SAME ISSUE?

A. Yes.

g. Pneumatic Controllers

Q. DID GUARDIANS SUBMIT COMMENTS ON THE ISSUE OF PNEUMATIC CONTROLLERS, AS IT RELATES TO THE PROPOSED PERMIT FOR THE MAVERICK FACILITY?

A. Yes.

Q. ARE THOSE COMMENTS SUBSTANTIALLY THE SAME AS THOSE COMMENTS GUARDIANS SUBMITTED ON THE ISSUE OF PNEUMATIC CONTROLLERS FOR THE BULLDOG FACILITY, IN AQB 21-31?

A. Yes.

Q. TO AVOID BEING UNDULY REPETITIOUS, DO YOU ADOPT YOUR TESTIMONY IN AQB 21-31, ON PAGES 18 TO 20, ON THE ISSUE OF PNEUMATIC CONTROLLERS AS YOUR TESTIMONY IN AQB 21-39 ON THE SAME ISSUE?

A. Yes.

h. NO2 and Other Ambient Air Quality Standards

Q. DID GUARDIANS SUBMIT COMMENTS ON THE ISSUE OF NO2 AMBIENT AIR QUALITY STANDARDS, AS IT RELATES TO THE PROPOSED PERMIT FOR THE MAVERICK FACILITY?

A. Yes.

Q. ARE THOSE COMMENTS SUBSTANTIALLY THE SAME AS THOSE COMMENTS GUARDIANS SUBMITTED ON THE ISSUE OF NO2 AMBIENT AIR QUALITY STANDARDS FOR THE BULLDOG FACILITY, IN AQB 21-31?

A. Yes, but the applicant indicated the Maverick facility would push the ambient concentration of NO2 to within 90.2% of the standard. In addition, Guardians also raised one additional comment on the issue of other Ambient Air Quality Standards for the Maverick facility.

Q. TO AVOID BEING UNDULY REPETITIOUS, DO YOU ADOPT YOUR TESTIMONY IN AQB 21-31, ON PAGES 20 TO 21, ON THE ISSUE OF NO2 AMBIENT AIR QUALITY STANDARDS AS YOUR TESTIMONY IN AQB 21-39 ON THE SAME ISSUE?

A. Yes.

Q. CAN YOU PLEASE EXPLAIN THE ONE ADDITIONAL COMMENT

**GUARDIANS RAISED ON THE ISSUE OF OTHER AMBIENT AIR QUALITY
STANDARDS RELATED TO THE MAVERICK FACILITY?**

A. Guardians requested that the Department explain whether the applicant was correct in using air quality monitoring stations in Albuquerque, New Mexico and Amarillo, Texas to determine background concentrations of CO and SO₂, even though this data may be obtained from air quality monitors that exist closer to the Maverick facility, in El Paso and Big Springs, Texas.

**Q. HAS THE ENVIRONMENT DEPARTMENT SUBSTANTIVELY RESPONDED
TO THAT REQUEST?**

A. No.

i. Excess Emissions

**Q. CAN YOU PLEASE EXPLAIN GUARDIANS' COMMENT ON THE ISSUE OF
EXCESS EMISSIONS, AS IT RELATES TO THE PROPOSED PERMIT TO
MODIFY THE MAVERICK FACILITY?**

A. Guardians submitted comments noting that the Maverick facility had recently self-reported excess emissions at this facility. Depending on the nature and quantity of these excess emissions, it is possible the excess emissions could qualify the Maverick facility as major source for nitrogen oxide emissions under the Prevention of Significant Deterioration requirements of the Clean Air Act and New Mexico Air Quality Control Act. Major sources of air pollution have different permitting requirements than minor sources. Guardians requested that the Environment Department analyze the Maverick facility's excess emissions and determine whether or not the facility now qualifies as a major source for nitrogen oxide emissions and, therefore, triggers the permitting requirements for major sources.

Q. HAS THE ENVIRONMENT DEPARTMENT SUBSTANTIVELY RESPONDED TO THAT REQUEST?

A. No.

j. Miscellaneous

Q. DID GUARDIANS SUBMIT COMMENTS ON SEVERAL MISCELLANEOUS ISSUES, AS THEY RELATE TO THE PROPOSED PERMIT FOR THE MAVERICK FACILITY?

A. Yes.

Q. ARE THOSE COMMENTS SUBSTANTIALLY THE SAME AS THOSE COMMENTS GUARDIANS SUBMITTED ON THE MISCELLANEOUS ISSUES FOR THE BULLDOG FACILITY, IN AQB 21-31?

A. Yes, but Guardians submitted one additional comment regarding miscellaneous issues associated with the proposed permit for the Maverick facility.

Q. TO AVOID BEING UNDULY REPETITIOUS, DO YOU ADOPT YOUR TESTIMONY IN AQB 21-31, ON PAGES 21 TO 22, REGARDING MISCELLANEOUS ISSUES AS YOUR TESTIMONY IN AQB 21-39 ON THE SAME ISSUE?

A. Yes.

Q. CAN YOU PLEASE EXPLAIN THE ONE ADDITIONAL MISCELLANEOUS ISSUE GUARDIANS RAISED IN RELATION TO THE MAVERICK FACILITY.

A. The Environment Department's Statement of Basis associated with the proposed permit for the Maverick facility, dated June 9, 2021, indicated that the permit requirement to develop a startup, shutdown, and emergency operational plan according to 20.2.70.300.D(5)(g) NMAC is

not applicable to the Maverick facility. Guardians has noted that for similar facilities, the Environment Department has not indicated this permit requirement is inapplicable, and Guardians requested the Department explain why this requirement is inapplicable to the Maverick facility.

Q. HAS THE ENVIRONMENT DEPARTMENT SUBSTANTIVELY RESPONDED TO THAT REQUEST?

A. No.

k. Conclusion

Q. DOES THIS CONCLUDE YOUR TESTIMONY FOR THE PROPOSED PERMIT TO MODIFY THE MAVERICK COMPRESSOR STATION, IN AQB 21-39?

A. Yes.

IX. SPARTAN COMPRESSOR STATION, AQB 21-40

Q. WHEN DID GUARDIANS SUBMIT COMMENTS ON THIS PROPOSED PERMIT?

A. The Environment Department published its Legal Notice and Preliminary Determination for this facility on April 8, 2021, providing the public 30 days with which to submit written comments. The Department published a revised Legal Notice and Preliminary Determination on April 24, 2021. Guardians submitted written comments, dated May 24, 2021, based on this legal notice. On June 11, 2021, Guardians received a letter from the Environment Department thanking us for our interest in this permit and notifying us that the Department's analysis of the permit application was made available for public comment and review on its webpage. Following receipt of this letter, Guardians submitted a second set of written comments, dated July 12, 2021, on the Department's analysis of the permit application and proposed permit.

Q. CAN YOU PLEASE SUMMARIZE THE ISSUES GUARDIANS RAISED IN ITS COMMENTS ON THIS PROPOSED PERMIT?

A. Guardians raised several issues in its comments on this facility, including: legal notice, ozone, the enforceability of SSM/M emission limits, absent operating permit, compliance, environmental justice, pneumatic controllers, NO2 ambient air quality analysis, and miscellaneous issues.

Q. DID GUARDIANS EVER RECEIVE A SUBSTANTIVE RESPONSE TO ITS COMMENTS FROM THE ENVIRONMENT DEPARTMENT?

A. No.

Q. WHAT IS GUARDIANS' POSITION ON THIS PROPOSED PERMIT?

A. Guardians opposes the proposed permit modification for the Spartan facility, and the Department must deny the permit application for the reasons I discuss later in my testimony, as well as provide information and answer questions Guardians raised in its comment submissions.

a. Legal Notice

Q. DID GUARDIANS SUBMIT COMMENTS ON THE ISSUE OF LEGAL NOTICE, AS IT RELATES TO THE PROPOSED PERMIT FOR THE SPARTAN FACILITY?

A. Yes.

Q. ARE THOSE COMMENTS SUBSTANTIALLY THE SAME AS THOSE COMMENTS GUARDIANS SUBMITTED ON THE ISSUE OF LEGAL NOTICE FOR THE MAVERICK FACILITY, IN AQB 21-39?

A. Yes.

Q. TO AVOID BEING UNDULY REPETITIOUS, DO YOU ADOPT YOUR TESTIMONY IN AQB 21-39, ON PAGES 58 TO 59, ON THE ISSUE OF LEGAL NOTICE AS YOUR TESTIMONY IN AQB 21-40 ON THE SAME ISSUE?

A. Yes.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

c. SSM/M Emission Limits

Q. DID GUARDIANS SUBMIT COMMENTS ON THE ISSUE OF PROPOSED SSM/M EMISSION LIMITS, AS IT RELATES TO THE PROPOSED PERMIT FOR THE SPARTAN FACILITY?

A. Yes.

Q. ARE THOSE COMMENTS SUBSTANTIALLY THE SAME AS THOSE COMMENTS GUARDIANS SUBMITTED ON THE ISSUE OF PROPOSED SSM/M EMISSION LIMITS FOR THE MAVERICK FACILITY, IN AQB 21-39?

A. Yes, but for the Spartan facility the unenforceable emission limits Guardians commented on apply to the units identified as “SSM,” “Malfunction,” “FL1-FL3 SSM,” “DEHY1 SSM,” “DEHY2 SSM,” and “DEHY3 SSM” set forth at section A107 of the proposed permit. “SSM” refers to compressor and associated piping blowdowns. “Malfunction” refers to venting of gas during malfunction. “FL1-FL3 SSM” refers to startup, shutdown, and maintenance emissions from flares FL-1 and FL-2. “DEHY1 SSM,” “DEHY2 SSM,” and “DEHY3 SSM” refer to startup, shutdown, and maintenance emissions from dehydrators DEHY1, DEHY2, and DEHY3, respectively.

Q. TO AVOID BEING UNDULY REPETITIOUS, DO YOU ADOPT YOUR TESTIMONY IN AQB 21-39, ON PAGES 60 TO 62, ON THE ISSUE OF

**PROPOSED SSM/M EMISSION LIMITS AS YOUR TESTIMONY IN AQB 21-40
ON THE SAME ISSUE?**

A. Yes, in general. For the “SSM” and “Malfunction” units, the proposed permit does not require the volume of gas vented to be measured by a meter or other means of volumetric measurement. Without such a measurement, it is unclear how gas vented during these events will be accurately measured to ensure compliance with the respective annual 10 ton per year VOC emission limits.

For the “FL1-FL3 SSM,” “DEHY1 SSM,” “DEHY2 SSM,” and “DEHY3 SSM” units, the proposed permit authorizes pounds per hour and tons per year emissions of NO_x, CO, VOC, SO₂, PM₁₀, and PM_{2.5} without any restriction on the frequency or duration of flaring during SSM. With no restriction on the frequency or duration of flaring during SSM, the annual emission rates are unenforceable as a practical matter. For example, although the permit limits SSM flaring VOC emissions to 29.6 tons per year, with no restrictions on the frequency or duration of flaring, as a practical matter, the permit would allow the facility to emit more than 3,700 tons of VOCs annually based on the permit’s hourly limit of 858.5 pounds per hour and presumption of operating 8,760 hours annually. Absent restrictions on the frequency or duration of these emissions it is unclear how the proposed annual emission limits could be practically complied with and enforced.

d. Operating Permit

Q. DID GUARDIANS SUBMIT COMMENTS ON THE ISSUE OF OPERATING PERMITS, AS IT RELATES TO THE PROPOSED PERMIT FOR THE SPARTAN FACILITY?

A. Yes.

Q. ARE THOSE COMMENTS SUBSTANTIALLY THE SAME AS THOSE COMMENTS GUARDIANS SUBMITTED ON THE ISSUE OF OPERATING PERMITS FOR THE BULLDOG FACILITY, IN AQB 21-31?

A. Yes, but for the Spartan facility the Environment Department authorized the facility to emit 100 or more tons per year of an air pollutant subject to regulation on June 13, 2018. This means XTO was required to submit an application for a Part 70 permit by June 13, 2019. To my knowledge, no application has been submitted.

Q. TO AVOID BEING UNDULY REPETITIOUS, DO YOU ADOPT YOUR TESTIMONY IN AQB 21-31, ON PAGES 15 TO 16, ON THE ISSUE OF OPERATING PERMITS AS YOUR TESTIMONY IN AQB 21-40 ON THE SAME ISSUE?

A. Yes.

e. Compliance

Q. DID GUARDIANS SUBMIT COMMENTS ON THE ISSUE OF COMPLIANCE TESTS, AS IT RELATES TO THE PROPOSED PERMIT FOR THE SPARTAN FACILITY?

A. Yes.

Q. ARE THOSE COMMENTS SUBSTANTIALLY THE SAME AS THOSE COMMENTS GUARDIANS SUBMITTED ON THE ISSUE OF COMPLIANCE TESTS FOR THE MAVERICK FACILITY, IN AQB 21-39?

A. Yes, but for the Spartan facility the Environment Department's Statement of Basis dated June 11, 2021 indicated that as of that date the Department Staff had been unable to verify the Spartan facility's compliance and enforcement status. The Department Staff had sent a Request

for Verification of compliance to an individual by the name of Allan Morris on March 3, 2021, and the Department was still waiting on a response as of June 11, 2021.

Q. TO AVOID BEING UNDULY REPETITIOUS, DO YOU ADOPT YOUR TESTIMONY IN AQB 21-39, ON PAGES 63 TO 64, ON THE ISSUE OF COMPLIANCE TESTS AS YOUR TESTIMONY IN AQB 21-40 ON THE SAME ISSUE?

A. Yes.

f. Environmental Justice

Q. DID GUARDIANS SUBMIT COMMENTS ON THE ISSUE OF ENVIRONMENTAL JUSTICE, AS IT RELATES TO THE PROPOSED PERMIT FOR THE SPARTAN FACILITY?

A. Yes.

Q. ARE THOSE COMMENTS SUBSTANTIALLY THE SAME AS THOSE COMMENTS GUARDIANS SUBMITTED ON THE ISSUE OF ENVIRONMENTAL JUSTICE FOR THE BULLDOG FACILITY, IN AQB 21-31?

A. Yes.

Q. TO AVOID BEING UNDULY REPETITIOUS, DO YOU ADOPT YOUR TESTIMONY IN AQB 21-31, ON PAGES 17 TO 18, ON THE ISSUE OF ENVIRONMENTAL JUSTICE AS YOUR TESTIMONY IN AQB 21-40 ON THE SAME ISSUE?

A. Yes.

g. Pneumatic Controllers

Q. DID GUARDIANS SUBMIT COMMENTS ON THE ISSUE OF PNEUMATIC

CONTROLLERS, AS IT RELATES TO THE PROPOSED PERMIT FOR THE SPARTAN FACILITY?

A. Yes.

Q. ARE THOSE COMMENTS SUBSTANTIALLY THE SAME AS THOSE COMMENTS GUARDIANS SUBMITTED ON THE ISSUE OF PNEUMATIC CONTROLLERS FOR THE BULLDOG FACILITY, IN AQB 21-31?

A. Yes.

Q. TO AVOID BEING UNDULY REPETITIOUS, DO YOU ADOPT YOUR TESTIMONY IN AQB 21-31, ON PAGES 18 TO 20, ON THE ISSUE OF PNEUMATIC CONTROLLERS AS YOUR TESTIMONY IN AQB 21-40 ON THE SAME ISSUE?

A. Yes.

h. NO2 Ambient Air Quality Standards

Q. DID GUARDIANS SUBMIT COMMENTS ON THE ISSUE OF NO2 AMBIENT AIR QUALITY STANDARDS, AS IT RELATES TO THE PROPOSED PERMIT FOR THE SPARTAN FACILITY?

A. Yes.

Q. ARE THOSE COMMENTS SUBSTANTIALLY THE SAME AS THOSE COMMENTS GUARDIANS SUBMITTED ON THE ISSUE OF NO2 AMBIENT AIR QUALITY STANDARDS FOR THE MAVERICK FACILITY, IN AQB 21 39?

A. Yes, but the applicant indicated the Spartan facility would push the ambient concentration of NO2 to within 87.4% of the standard.

Q. TO AVOID BEING UNDULY REPETITIOUS, DO YOU ADOPT YOUR TESTIMONY IN AQB 21-39, ON PAGES 65 TO 66, ON THE ISSUE OF NO2 AMBIENT AIR QUALITY STANDARDS AS YOUR TESTIMONY IN AQB 21-40 ON THE SAME ISSUE?

A. Yes.

i. Miscellaneous

Q. DID GUARDIANS SUBMIT COMMENTS ON SEVERAL MISCELLANEOUS ISSUES, AS THEY RELATE TO THE PROPOSED PERMIT FOR THE SPARTAN FACILITY?

A. Yes.

Q. ARE THOSE COMMENTS SUBSTANTIALLY THE SAME AS THOSE COMMENTS GUARDIANS SUBMITTED ON THE MISCELLANEOUS ISSUES FOR THE BULLDOG FACILITY, IN AQB 21-31?

A. Yes.

Q. TO AVOID BEING UNDULY REPETITIOUS, DO YOU ADOPT YOUR TESTIMONY IN AQB 21-31, ON PAGES 21 TO 22, REGARDING MISCELLANEOUS ISSUES AS YOUR TESTIMONY IN AQB 21-40 ON THE SAME ISSUE?

A. Yes.

j. Conclusion

Q. DOES THIS CONCLUDE YOUR TESTIMONY FOR THE PROPOSED PERMIT TO MODIFY THE SPARTAN COMPRESSOR STATION, IN AQB 21-40?

A. Yes.

X. TIGER COMPRESSOR STATION, AQB 21-41

Q. WHEN DID GUARDIANS SUBMIT COMMENTS ON THIS PROPOSED PERMIT?

A. The Environment Department published its Legal Notice and Preliminary Determination for this facility on April 9, 2021, providing the public 30 days with which to submit written comments. The Department published a revised Legal Notice and Preliminary Determination on April 24, 2021. Guardians submitted written comments, dated May 24, 2021, based on this legal notice. On June 11, 2021, Guardians received a letter from the Environment Department thanking us for our interest in this permit and notifying us that the Department's analysis of the permit application was made available for public comment and review on its webpage. Following receipt of this letter, Guardians submitted a second set of written comments, dated July 12, 2021, on the Department's analysis of the permit application and proposed permit.

Q. CAN YOU PLEASE SUMMARIZE THE ISSUES GUARDIANS RAISED IN ITS COMMENTS ON THIS PROPOSED PERMIT?

A. Guardians raised several issues in its comments on this facility, including: legal notice, ozone, the enforceability of SSM/M emission limits, absent operating permit, compliance, environmental justice, pneumatic controllers, NO2 ambient air quality analysis, and miscellaneous issues.

Q. DID GUARDIANS EVER RECEIVE A SUBSTANTIVE RESPONSE TO ITS COMMENTS FROM THE ENVIRONMENT DEPARTMENT?

A. No.

Q. WHAT IS GUARDIANS' POSITION ON THIS PROPOSED PERMIT?

A. Guardians opposes the proposed permit modification for the Tiger facility, and the Department must deny the permit application for the reasons I discuss later in my testimony, as well as provide information and answer questions Guardians raised in its comment submissions.

a. Legal Notice

Q. DID GUARDIANS SUBMIT COMMENTS ON THE ISSUE OF LEGAL NOTICE, AS IT RELATES TO THE PROPOSED PERMIT FOR THE TIGER FACILITY?

A. Yes.

Q. ARE THOSE COMMENTS SUBSTANTIALLY THE SAME AS THOSE COMMENTS GUARDIANS SUBMITTED ON THE ISSUE OF LEGAL NOTICE FOR THE MAVERICK FACILITY, IN AQB 21-39?

A. Yes.

Q. TO AVOID BEING UNDULY REPETITIOUS, DO YOU ADOPT YOUR TESTIMONY IN AQB 21-39, ON PAGES 58 TO 59, ON THE ISSUE OF LEGAL NOTICE AS YOUR TESTIMONY IN AQB 21-41 ON THE SAME ISSUE?

A. Yes.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

c. SSM/M Emission Limits

Q. DID GUARDIANS SUBMIT COMMENTS ON THE ISSUE OF PROPOSED SSM/M EMISSION LIMITS, AS IT RELATES TO THE PROPOSED PERMIT FOR THE TIGER FACILITY?

A. Yes, but for the Tiger facility the unenforceable emission limits Guardians commented on apply to the units identified as “SSM,” “Malfunction,” “FL1-FL3 SSM,” “DEHY1 SSM,” “DEHY2 SSM,” and “DEHY3 SSM” set forth at section A107 of the proposed permit. These terms refer to the same sources of SSM/M emissions as set forth in the Spartan Permit at issue in AQB 21-40.

Q. ARE THOSE COMMENTS SUBSTANTIALLY THE SAME AS THOSE COMMENTS GUARDIANS SUBMITTED ON THE ISSUE OF PROPOSED SSM/M EMISSION LIMITS FOR THE SPARTAN FACILITY, IN AQB 21-40?

A. Yes.

Q. TO AVOID BEING UNDULY REPETITIOUS, DO YOU ADOPT YOUR TESTIMONY IN AQB 21-40, ON PAGES 71 TO 72, ON THE ISSUE OF PROPOSED SSM/M EMISSION LIMITS AS YOUR TESTIMONY IN AQB 21-41 ON THE SAME ISSUE?

A. Yes.

d. Operating Permit

Q. DID GUARDIANS SUBMIT COMMENTS ON THE ISSUE OF OPERATING PERMITS, AS IT RELATES TO THE PROPOSED PERMIT FOR THE TIGER FACILITY?

A. Yes.

Q. ARE THOSE COMMENTS SUBSTANTIALLY THE SAME AS THOSE COMMENTS GUARDIANS SUBMITTED ON THE ISSUE OF OPERATING PERMITS FOR THE BULLDOG FACILITY, IN AQB 21-31?

A. Yes, but for the Tiger facility the Environment Department authorized the facility to emit 100 or more tons per year of an air pollutant subject to regulation on May 2, 2018. This means XTO was required to submit an application for a Part 70 permit by May 2, 2019. To my knowledge, no application has been submitted.

Q. TO AVOID BEING UNDULY REPETITIOUS, DO YOU ADOPT YOUR TESTIMONY IN AQB 21-31, ON PAGES 15 TO 16, ON THE ISSUE OF OPERATING PERMITS AS YOUR TESTIMONY IN AQB 21-41 ON THE SAME ISSUE?

A. Yes.

e. Compliance

Q. DID GUARDIANS SUBMIT COMMENTS ON THE ISSUE OF COMPLIANCE TESTS, AS IT RELATES TO THE PROPOSED PERMIT FOR THE TIGER FACILITY?

A. Yes.

Q. ARE THOSE COMMENTS SUBSTANTIALLY THE SAME AS THOSE

COMMENTS GUARDIANS SUBMITTED ON THE ISSUE OF COMPLIANCE TESTS FOR THE SPARTAN FACILITY, IN AQB 21-40?

A. Yes.

Q. TO AVOID BEING UNDULY REPETITIOUS, DO YOU ADOPT YOUR TESTIMONY IN AQB 21-40, ON PAGES 73 TO 74, ON THE ISSUE OF COMPLIANCE TESTS AS YOUR TESTIMONY IN AQB 21-41 ON THE SAME ISSUE?

A. Yes.

f. Environmental Justice

Q. DID GUARDIANS SUBMIT COMMENTS ON THE ISSUE OF ENVIRONMENTAL JUSTICE, AS IT RELATES TO THE PROPOSED PERMIT FOR THE TIGER FACILITY?

A. Yes.

Q. ARE THOSE COMMENTS SUBSTANTIALLY THE SAME AS THOSE COMMENTS GUARDIANS SUBMITTED ON THE ISSUE OF ENVIRONMENTAL JUSTICE FOR THE BULLDOG FACILITY, IN AQB 21-31?

A. Yes.

Q. TO AVOID BEING UNDULY REPETITIOUS, DO YOU ADOPT YOUR TESTIMONY IN AQB 21-31, ON PAGES 17 TO 18, ON THE ISSUE OF ENVIRONMENTAL JUSTICE AS YOUR TESTIMONY IN AQB 21-41 ON THE SAME ISSUE?

A. Yes.

g. Pneumatic Controllers

Q. DID GUARDIANS SUBMIT COMMENTS ON THE ISSUE OF PNEUMATIC CONTROLLERS, AS IT RELATES TO THE PROPOSED PERMIT FOR THE TIGER FACILITY?

A. Yes.

Q. ARE THOSE COMMENTS SUBSTANTIALLY THE SAME AS THOSE COMMENTS GUARDIANS SUBMITTED ON THE ISSUE OF PNEUMATIC CONTROLLERS FOR THE BULLDOG FACILITY, IN AQB 21-31?

A. Yes.

Q. TO AVOID BEING UNDULY REPETITIOUS, DO YOU ADOPT YOUR TESTIMONY IN AQB 21-31, ON PAGES 18 TO 20, ON THE ISSUE OF PNEUMATIC CONTROLLERS AS YOUR TESTIMONY IN AQB 21-41 ON THE SAME ISSUE?

A. Yes.

h. NO2 Ambient Air Quality Standards

Q. DID GUARDIANS SUBMIT COMMENTS ON THE ISSUE OF NO2 AMBIENT AIR QUALITY STANDARDS, AS IT RELATES TO THE PROPOSED PERMIT FOR THE TIGER FACILITY?

A. Yes.

Q. ARE THOSE COMMENTS SUBSTANTIALLY THE SAME AS THOSE COMMENTS GUARDIANS SUBMITTED ON THE ISSUE OF NO2 AMBIENT AIR QUALITY STANDARDS FOR THE MAVERICK FACILITY, IN AQB 21 39?

A. Yes, but the applicant indicated the Tiger facility would push the ambient concentration of NO₂ to within 90.6% of the standard as reported by the applicant.

Q. TO AVOID BEING UNDULY REPETITIOUS, DO YOU ADOPT YOUR TESTIMONY IN AQB 21-39, ON PAGES 65 TO 66, ON THE ISSUE OF NO₂ AMBIENT AIR QUALITY STANDARDS AS YOUR TESTIMONY IN AQB 21-41 ON THE SAME ISSUE?

A. Yes.

i. Miscellaneous

Q. DID GUARDIANS SUBMIT COMMENTS ON SEVERAL MISCELLANEOUS ISSUES, AS THEY RELATE TO THE PROPOSED PERMIT FOR THE TIGER FACILITY?

A. Yes.

Q. ARE THOSE COMMENTS SUBSTANTIALLY THE SAME AS THOSE COMMENTS GUARDIANS SUBMITTED ON THE MISCELLANEOUS ISSUES FOR THE BULLDOG FACILITY, IN AQB 21-31?

A. Yes, but Guardians submitted one additional comment regarding miscellaneous issues associated with the proposed permit for the Tiger facility.

Q. TO AVOID BEING UNDULY REPETITIOUS, DO YOU ADOPT YOUR TESTIMONY IN AQB 21-31, ON PAGES 21 TO 22, REGARDING MISCELLANEOUS ISSUES AS YOUR TESTIMONY IN AQB 21-41 ON THE SAME ISSUE?

A. Yes.

Q. CAN YOU PLEASE EXPLAIN THE ONE ADDITIONAL MISCELLANEOUS

ISSUE GUARDIANS RAISED IN RELATION TO THE TIGER FACILITY.

A. The Environment Department's Statement of Basis associated with the proposed permit for the Tiger facility, dated June 11, 2021, indicated that the modeling analysis for this permit was still in process at the time, and that the issuance status of this permit would be dependent on results of the modeling analysis meeting the applicable NAAQS. Guardians submitted a comment requesting that the Environment Department explain whether or not the necessary modeling analysis for this permit had been completed. Guardians also requested that those modeling results be made available for public review and comment.

Q. HAS THE ENVIRONMENT DEPARTMENT RESPONDED SUBSTANTIVELY TO THAT REQUEST?

A. No.

j. Conclusion

Q. DOES THIS CONCLUDE YOUR TESTIMONY FOR THE PROPOSED PERMIT TO MODIFY THE TIGER COMPRESSOR STATION, IN AQB 21-41?

A. Yes.

XI. WILLOW LAKE GAS PROCESSING PLANT, AQB 21-38

Q. WHEN DID GUARDIANS SUBMIT COMMENTS ON THIS PROPOSED PERMIT?

A. The Environment Department published its Legal Notice and Preliminary Determination for this facility on March 20, 2021, providing the public 30 days with which to submit written comments. The Department published a revised Legal Notice and Preliminary Determination on April 22, 2021. Guardians submitted written comments, dated April 16, 2021, based on this legal notice. On May 28, 2021, Guardians received a letter from the Environment Department thanking us for our interest in this permit and notifying us that the Department's analysis of the permit application was made available for public comment and review on its webpage. Following receipt of this letter, Guardians submitted a second set of written comments, dated June 28, 2021, on the Department's analysis of the permit application and proposed permit.

Q. CAN YOU PLEASE SUMMARIZE THE ISSUES GUARDIANS RAISED IN ITS COMMENTS ON THIS PROPOSED PERMIT?

A. Guardians raised several issues in its comments on this facility, including: legal notice, ozone, the enforceability of SSM/M emission limits, compliance, environmental justice, pneumatic controllers, NO₂ ambient air quality analysis, and miscellaneous issues.

Q. DID GUARDIANS EVER RECEIVE A SUBSTANTIVE RESPONSE TO ITS COMMENTS FROM THE ENVIRONMENT DEPARTMENT?

A. No, but the Department did send an email, dated September 21, 2021, notifying us that the Department had issued a revised draft permit for the Willow Lake facility. The Department's revisions to the draft permit did not resolve the concerns we raised in our comments.

Q. WHAT IS GUARDIANS' POSITION ON THIS PROPOSED PERMIT?

A. Guardians opposes the proposed permit modification for the Willow Lake facility, and the Department must deny the permit application for the reasons I discuss later in my testimony, as well as provide information and answer questions Guardians raised in its comment submissions.

a. Legal Notice

Q. DID GUARDIANS SUBMIT COMMENTS ON THE ISSUE OF LEGAL NOTICE, AS IT RELATES TO THE PROPOSED PERMIT FOR THE WILLOW LAKE FACILITY?

A. Yes.

Q. ARE THOSE COMMENTS SUBSTANTIALLY THE SAME AS THOSE COMMENTS GUARDIANS SUBMITTED ON THE ISSUE OF LEGAL NOTICE FOR THE MAVERICK FACILITY, IN AQB 21-39?

A. Yes.

Q. TO AVOID BEING UNDULY REPETITIOUS, DO YOU ADOPT YOUR TESTIMONY IN AQB 21-39, ON PAGES 58 TO 59, ON THE ISSUE OF LEGAL NOTICE AS YOUR TESTIMONY IN AQB 21-38 ON THE SAME ISSUE?

A. Yes.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

c. SSM/M Emission Limits

Q. DID GUARDIANS SUBMIT COMMENTS ON THE ISSUE OF PROPOSED SSM/M EMISSION LIMITS, AS IT RELATES TO THE PROPOSED PERMIT FOR THE WILLOW LAKE FACILITY?

A. Yes.

Q. ARE THOSE COMMENTS SUBSTANTIALLY THE SAME AS THOSE COMMENTS GUARDIANS SUBMITTED ON THE ISSUE OF PROPOSED SSM/M EMISSION LIMITS FOR THE BULLDOG FACILITY, IN AQB 21-31?

A. Yes, but for the Willow Lake facility the unenforceable emission limits Guardians commented on apply to the units identified as “SSM/M,” “WL1-FL Blowdown,” “WL2-FL Blowdown,” and “PIGGING” set forth at section A107 of the proposed permit. Guardians also commented that it was unclear from the proposed permit why NMED limited the number of flaring events from WL2-FL but not for WL1-FL. Guardians further commented that even with the limit on the number of flaring events from WL2-FL, without an associated limit on the duration of flaring events it would still be impossible to ensure compliance with the annual emission limits.

Q. TO AVOID BEING UNDULY REPETITIOUS, DO YOU ADOPT YOUR TESTIMONY IN AQB 21-31, ON PAGES 13 TO 14, ON THE ISSUE OF PROPOSED SSM/M EMISSION LIMITS AS YOUR TESTIMONY IN AQB 21-38 ON THE SAME ISSUE?

A. Yes.

d. Compliance

Q. DID GUARDIANS SUBMIT COMMENTS ON THE ISSUE OF COMPLIANCE TESTS, AS IT RELATES TO THE PROPOSED PERMIT FOR THE WILLOW LAKE FACILITY?

A. Yes.

Q. ARE THOSE COMMENTS SUBSTANTIALLY THE SAME AS THOSE COMMENTS GUARDIANS SUBMITTED ON THE ISSUE OF COMPLIANCE TESTS FOR THE MAVERICK FACILITY, IN AQB 21-39?

A. Yes, but for the Willow Lake facility the Environment Department's Statement of Basis, dated September 21, 2021, indicated that as of that date the Department Staff had been unable to verify the Willow Lake facility's compliance and enforcement status. The Department Staff had sent a Request for Verification of compliance to an individual by the name of Allan Morris on February 24, 2021, and a response on compliance verification was still pending as of May 19, 2021.

Q. TO AVOID BEING UNDULY REPETITIOUS, DO YOU ADOPT YOUR TESTIMONY IN AQB 21-39, ON PAGES 63 TO 64, ON THE ISSUE OF COMPLIANCE TESTS AS YOUR TESTIMONY IN AQB 21-38 ON THE SAME ISSUE?

A. Yes.

e. Environmental Justice

Q. DID GUARDIANS SUBMIT COMMENTS ON THE ISSUE OF ENVIRONMENTAL JUSTICE, AS IT RELATES TO THE PROPOSED PERMIT FOR THE WILLOW LAKE FACILITY?

A. Yes.

Q. ARE THOSE COMMENTS SUBSTANTIALLY THE SAME AS THOSE COMMENTS GUARDIANS SUBMITTED ON THE ISSUE OF ENVIRONMENTAL JUSTICE FOR THE BULLDOG FACILITY, IN AQB 21-31?

A. Yes.

Q. TO AVOID BEING UNDULY REPETITIOUS, DO YOU ADOPT YOUR TESTIMONY IN AQB 21-31, ON PAGES 17 TO 18, ON THE ISSUE OF ENVIRONMENTAL JUSTICE AS YOUR TESTIMONY IN AQB 21-38 ON THE SAME ISSUE?

A. Yes.

f. Pneumatic Controllers

Q. DID GUARDIANS SUBMIT COMMENTS ON THE ISSUE OF PNEUMATIC CONTROLLERS, AS IT RELATES TO THE PROPOSED PERMIT FOR THE WILLOW LAKE FACILITY?

A. Yes.

Q. ARE THOSE COMMENTS SUBSTANTIALLY THE SAME AS THOSE COMMENTS GUARDIANS SUBMITTED ON THE ISSUE OF PNEUMATIC CONTROLLERS FOR THE BULLDOG FACILITY, IN AQB 21-31?

A. Yes.

Q. TO AVOID BEING UNDULY REPETITIOUS, DO YOU ADOPT YOUR TESTIMONY IN AQB 21-31, ON PAGES 18 TO 20, ON THE ISSUE OF PNEUMATIC CONTROLLERS AS YOUR TESTIMONY IN AQB 21-38 ON THE SAME ISSUE?

A. Yes.

g. NO2 Ambient Air Quality Standards

Q. DID GUARDIANS SUBMIT COMMENTS ON THE ISSUE OF NO2 AMBIENT AIR QUALITY STANDARDS, AS IT RELATES TO THE PROPOSED PERMIT FOR THE WILLOW LAKE FACILITY?

A. Yes.

Q. ARE THOSE COMMENTS SUBSTANTIALLY THE SAME AS THOSE COMMENTS GUARDIANS SUBMITTED ON THE ISSUE OF NO2 AMBIENT AIR QUALITY STANDARDS FOR THE MAVERICK FACILITY, IN AQB 21 39?

A. Yes, but the applicant indicated the Willow Lake facility would push the ambient concentration of NO2 to within 80.4% of the standard as reported by the applicant.

Q. TO AVOID BEING UNDULY REPETITIOUS, DO YOU ADOPT YOUR TESTIMONY IN AQB 21-39, ON PAGES 65 TO 66, ON THE ISSUE OF NO2 AMBIENT AIR QUALITY STANDARDS AS YOUR TESTIMONY IN AQB 21-38 ON THE SAME ISSUE?

A. Yes.

h. Miscellaneous

Q. CAN YOU PLEASE EXPLAIN GUARDIANS' COMMENT AND CONCERN RELATED TO THE MISCELLANEOUS ISSUES RAISED IN GUARDIANS' COMMENT SUBMITTAL?

A. Guardians raised three miscellaneous concerns that haven't already been addressed in my previous testimony. First, Guardians requested the Environment Department explain why the proposed permit, at section A110A, would authorize the Willow Lake facility to combust natural gas containing as much as 5 grains of total sulfur per 100 dry standard cubic feet. Similar facilities are typically permitted to combust natural gas at no more 3.8 grain of total sulfur per 100 dry standard cubic feet.

Second, Guardians requested the Environment Department explain why the proposed permit, at section A202B, would require only quarterly monitoring of the Willow Lake facility's circulation rate for glycol dehydrators. Similar facilities typically require monthly monitoring of this feature.

Third, Guardians requested the Environment Department explain whether or not the dispersion modeling results provided in the permit application for the Willow Lake facility were accurate in reporting no air pollutant concentrations from surrounding sources. Guardians also requested the Department, in its explanation, provide a copy of the Air Quality Bureau's surrounding source inventory on which the applicant based its modeling.

Q. HAS THE ENVIRONMENT DEPARTMENT SUBSTANTIVELY RESPONDED TO THIS COMMENT?

A. No.

i. Conclusion

Q. DOES THIS CONCLUDE YOUR TESTIMONY FOR THE PROPOSED PERMIT

TO MODIFY THE WILLOW LAKE GAS PROCESSING PLANT, IN AQB 21-38?

A. Yes.

XII. ZIA HILLS CENTRAL FACILITY, AQB 21-36

Q. WHEN DID GUARDIANS SUBMIT COMMENTS ON THIS PROPOSED PERMIT?

A. The Environment Department published its Legal Notice and Preliminary Determination for this facility on February 17, 2021, providing the public 30 days with which to submit written comments. The Department published a revised Legal Notice and Preliminary Determination on May 22, 2021. Guardians submitted written comments, dated March 12, 2021, based on the former legal notice. On June 18, 2021, Guardians received a letter from the Environment Department thanking us for our interest in this permit and notifying us that the Department's analysis of the permit application was made available for public comment and review on its webpage. Following receipt of this letter, Guardians submitted a second set of written comments, dated July 16, 2021, on the Department's analysis of the permit application and proposed permit.

Q. CAN YOU PLEASE SUMMARIZE THE ISSUES GUARDIANS RAISED IN ITS COMMENTS ON THIS PROPOSED PERMIT?

A. Guardians raised several issues in its comments on this facility, including: legal notice, ozone, the enforceability of SSM/M emission limits, environmental justice, pneumatic controllers, NO2 ambient air quality analysis, and miscellaneous issues.

Q. DID GUARDIANS EVER RECEIVE A SUBSTANTIVE RESPONSE TO ITS COMMENTS FROM THE ENVIRONMENT DEPARTMENT?

A. No.

Q. WHAT IS GUARDIANS' POSITION ON THIS PROPOSED PERMIT?

A. Guardians opposes the proposed permit modification for the Zia Hills facility, and the Department must deny the permit application for the reasons I discuss later in my testimony, as well as provide information and answer questions Guardians raised in its comment submissions.

a. Legal Notice

Q. DID GUARDIANS SUBMIT COMMENTS ON THE ISSUE OF LEGAL NOTICE, AS IT RELATES TO THE PROPOSED PERMIT FOR THE ZIA HILLS FACILITY?

A. Yes.

Q. ARE THOSE COMMENTS SUBSTANTIALLY THE SAME AS THOSE COMMENTS GUARDIANS SUBMITTED ON THE ISSUE OF LEGAL NOTICE FOR THE MAVERICK FACILITY, IN AQB 21-39?

A. Yes.

Q. TO AVOID BEING UNDULY REPETITIOUS, DO YOU ADOPT YOUR TESTIMONY IN AQB 21-39, ON PAGES 58 TO 59, ON THE ISSUE OF LEGAL NOTICE AS YOUR TESTIMONY IN AQB 21-36 ON THE SAME ISSUE?

A. Yes.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

c. SSM/M Emission Limits

Q. DID GUARDIANS SUBMIT COMMENTS ON THE ISSUE OF PROPOSED SSM/M EMISSION LIMITS, AS IT RELATES TO THE PROPOSED PERMIT FOR THE ZIA HILLS FACILITY?

A. Yes.

Q. ARE THOSE COMMENTS SUBSTANTIALLY THE SAME AS THOSE COMMENTS GUARDIANS SUBMITTED ON THE ISSUE OF PROPOSED SSM/M EMISSION LIMITS FOR THE BULLDOG FACILITY, IN AQB 21-31?

A. Yes, but for the Zia Hills facility the unenforceable emission limits Guardians commented on apply to the units identified as “FL1,” “FL2/FL3,” “SSM,” and “MF” set forth at section A107 of the proposed permit. “FL1” refers to venting of gas due to compressor downtime, blowdowns, and starter vents. “FL2/FL3” refers to venting of gas due to vapor recovery unit downtime. “SSM” refers to compressor and associated piping blowdowns during routine and predictable startup, shutdown, and/or maintenance, and venting of gas due to startup, shutdown, and maintenance events. “MF” refers to venting of gas during malfunction (equipment failure).

Q. TO AVOID BEING UNDULY REPETITIOUS, DO YOU ADOPT YOUR

**TESTIMONY IN AQB 21-31, ON PAGES 13 TO 14, ON THE ISSUE OF
PROPOSED SSM/M EMISSION LIMITS AS YOUR TESTIMONY IN AQB 21-36
ON THE SAME ISSUE?**

A. Yes, in general. For the “SSM” and “MF” units, the proposed permit does not require the volume of gas vented to be measured by a meter or other means of volumetric measurement. Without such a measurement, it is unclear how gas vented during these events will be accurately measured to ensure compliance with their respective annual VOC emission limits.

For the “FL1” and “FL2/FL3” units, the proposed permit authorizes pounds per hour and tons per year emissions of NO_x, CO, and VOC without any restriction on the frequency or duration of flaring during SSM. With no restriction on the frequency or duration of flaring during SSM, the annual emission rates are unenforceable as a practical matter. For example, although the permit limits FL1 flaring VOC emissions to 9.6 tons per year, with no restrictions on the frequency or duration of flaring, as a practical matter, the permit would allow the facility to emit more than 1,300 tons of VOCs annually based on the permit’s hourly limit of 309.3 pounds per hour and presumption of operating 8,760 hours annually. Absent restrictions on the frequency or duration of these emissions it is unclear how the proposed annual emission limits could be practically complied with and enforced.

d. Environmental Justice

**Q. DID GUARDIANS SUBMIT COMMENTS ON THE ISSUE OF
ENVIRONMENTAL JUSTICE, AS IT RELATES TO THE PROPOSED PERMIT
FOR THE ZIA HILLS FACILITY?**

A. Yes.

Q. ARE THOSE COMMENTS SUBSTANTIALLY THE SAME AS THOSE

**COMMENTS GUARDIANS SUBMITTED ON THE ISSUE OF
ENVIRONMENTAL JUSTICE FOR THE BULLDOG FACILITY, IN AQB 21-31?**

A. Yes.

**Q. TO AVOID BEING UNDULY REPETITIOUS, DO YOU ADOPT YOUR
TESTIMONY IN AQB 21-31, ON PAGES 17 TO 18, ON THE ISSUE OF
ENVIRONMENTAL JUSTICE AS YOUR TESTIMONY IN AQB 21-36 ON THE
SAME ISSUE?**

A. Yes.

e. Pneumatic Controllers

**Q. DID GUARDIANS SUBMIT COMMENTS ON THE ISSUE OF PNEUMATIC
CONTROLLERS, AS IT RELATES TO THE PROPOSED PERMIT FOR THE
ZIA HILLS FACILITY?**

A. Yes.

**Q. ARE THOSE COMMENTS SUBSTANTIALLY THE SAME AS THOSE
COMMENTS GUARDIANS SUBMITTED ON THE ISSUE OF PNEUMATIC
CONTROLLERS FOR THE BULLDOG FACILITY, IN AQB 21-31?**

A. Yes.

**Q. TO AVOID BEING UNDULY REPETITIOUS, DO YOU ADOPT YOUR
TESTIMONY IN AQB 21-31, ON PAGES 18 TO 20, ON THE ISSUE OF
PNEUMATIC CONTROLLERS AS YOUR TESTIMONY IN AQB 21-36 ON THE
SAME ISSUE?**

A. Yes.

f. NO2 Ambient Air Quality Standards

Q. DID GUARDIANS SUBMIT COMMENTS ON THE ISSUE OF NO2 AMBIENT AIR QUALITY STANDARDS, AS IT RELATES TO THE PROPOSED PERMIT FOR THE ZIA HILLS FACILITY?

A. Yes, but the applicant indicated the Zia Hills facility would push the ambient concentration of NO2 to within 68.9% of the standard as reported by the applicant.

Q. ARE THOSE COMMENTS SUBSTANTIALLY THE SAME AS THOSE COMMENTS GUARDIANS SUBMITTED ON THE ISSUE OF NO2 AMBIENT AIR QUALITY STANDARDS FOR THE MAVERICK FACILITY, IN AQB 21 39?

A. Yes.

Q. TO AVOID BEING UNDULY REPETITIOUS, DO YOU ADOPT YOUR TESTIMONY IN AQB 21-39, ON PAGES 65 TO 66, ON THE ISSUE OF NO2 AMBIENT AIR QUALITY STANDARDS AS YOUR TESTIMONY IN AQB 21-36 ON THE SAME ISSUE?

A. Yes.

g. Miscellaneous

Q. DID GUARDIANS SUBMIT COMMENTS ON SEVERAL MISCELLANEOUS ISSUES, AS THEY RELATE TO THE PROPOSED PERMIT FOR THE ZIA HILLS FACILITY?

A. Yes.

Q. ARE THOSE COMMENTS SUBSTANTIALLY THE SAME AS THOSE COMMENTS GUARDIANS SUBMITTED ON THE MISCELLANEOUS ISSUES FOR THE BULLDOG FACILITY, IN AQB 21-31?

A. Yes, but Guardians submitted one additional comment regarding miscellaneous issues associated with the proposed permit for the Zia Hills facility.

Q. TO AVOID BEING UNDULY REPETITIOUS, DO YOU ADOPT YOUR TESTIMONY IN AQB 21-31, ON PAGES 21 TO 22, REGARDING MISCELLANEOUS ISSUES AS YOUR TESTIMONY IN AQB 21-36 ON THE SAME ISSUE?

A. Yes.

Q. CAN YOU PLEASE EXPLAIN THE ONE ADDITIONAL MISCELLANEOUS ISSUE GUARDIANS RAISED IN RELATION TO THE ZIA HILLS FACILITY?

A. In the Environment Department's Statement of Basis dated August 27, 2021, the Department indicated that a startup, shutdown, and emergency operational plan in accordance with 20.2.70.300.D(5)(g) NMAC was not applicable to the Zia Hills facility. Guardians requested that the Department explain why this plan is not applicable for the Zia Hills facility.

Q. HAS THE ENVIRONMENT DEPARTMENT SUBSTANTIVELY RESPONDED TO THIS COMMENT?

A. No.

h. Conclusion

Q. DOES THIS CONCLUDE YOUR TESTIMONY FOR THE PROPOSED PERMIT TO MODIFY THE ZIA HILLS CENTRAL FACILITY, IN AQB 21-36?

A. Yes.